



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-152
Site: 15 Lake Street
Date of Decision: April 17, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 1, 2019

ZBA DECISION

Site: 15 Lake Street
Applicant Name: Elan Sassoon
Applicant Address: 295 Upland Avenue, Newton, MA 02461
Owner Name: Carlos & Virginia Bettencourt
Owner Address: 65 Seabrook Drive,
City Councilor: J.T. Scott

Legal Notice: Applicant, Elan Sassoon, and Owners, Carlos & Virginia Bettencourt, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure by increasing the Gross Floor Area (GFA) by more than 25%, construct dormers within the right side yard setback. Variance under §5.5 and §8.5 of the SZO to create a new non-conformity with respect to the rear yard setback. Parking relief under Article 9 of the SZO. RC zone. Ward 2.

**Since this legal ad was published, the proposal has been altered such that the size of the proposed rear addition has been significantly reduced such that no new conformity is being created. Therefore, no variances are required for this proposal.*

<u>Zoning District/Ward:</u>	RC zone. Ward 2.
<u>Zoning Approval Sought:</u>	SZO §4.4.1, §5.5 and §8.5
<u>Date of Application:</u>	October 25, 2018
<u>Date(s) of Public Hearing:</u>	April 17, 2019
<u>Date of Decision:</u>	April 17, 2019
<u>Vote:</u>	4-0

Case # ZBA 2018-152 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on April 17, 2019. 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.



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I. DESCRIPTION:

The following changes are proposed for this property. Triggers for special permitting have are noted:

- gut renovation of existing structure
- increase number of units from 2 to 3
 - Unit 1 will contain ~ 1,776 net square feet (NSD)
 - Unit 2 will contain ~ 924 NSF
 - Unit 3 will contain ~ 900 NSF
- removal of all bituminous material
- removal of chain-link fencing
- construction of rear addition
- re-landscaping of site

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 of the SZO.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

Section 4.4.1 of the SZO

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

Gross Floor Area (GFA)

Section 4.4.1 of the SZO requires that an Applicant seek a special permit when then GFA of a property will increase more than 25%.

Right side yard setback

The RB zone requires a left yard setback of 8 feet for a 2 ½-story structure and 10 feet for a 3-story structure. The proposed building constitutes a 3-story structure. The existing setback is non-conforming at .8 feet from the right property line. The right facade of the rear addition appears to slightly step in from



the .8 side yard setback. The flat roof of the rear addition steps down from the roofline of the original main structure.

Parking

This property is already non-conforming with regard to legal parking spaces. The Applicant proposes that the property continue to be non-conforming with regard to parking. The assessment regarding relief for number of parking spaces appears below:

Unit #	Existing BDR	Existing Req. Pkg.	Unit #	Proposed BDR	Proposed Req. Pkg.
#1	1	1.5	#1	3	2.0
#2	3	2.0	#2	2	1.5
#3	n/a	n/a	#3	2	1.5
TOTAL: 3.5 (rounded to 4.0)			TOTAL: 5.0		

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

15 Lake St: 5.0 – 4.0 = 1.0 spaces of relief needed

Other determinations

Lake Street is bound by Hawkins and Church Streets and intersected by Carlton Street and Olive Square. Somerville Avenue and Washington Street run parallel to Lake. Single-story cement auto garages and a ½-story residential building flank Lake Street at the intersection with Hawkins while a heavily-modified, 3-story residential building and the long, brick street walls of the H.D. Chasen & Co. building and the Market Basket dominate the view corridor at Lake’s intersection with Church.

The immediate left-abutting property to 15 Lake is a 2 ½-story residential structure. The immediate right-abutting property is currently a dirt/packed gravel parking lot that is being considered for private redevelopment in the coming months.

Additional residential structures on the street include two-, three-, and multi-unit 2 ½- and 3-story buildings in various states of rehabilitation. A complex of wood-framed condominiums with grade-level garages can be found between the subject property and Carlton Street as can a pair of traditional triple-deckers. Building styles along the street range from flat, triple-decker to gable-fronted, to pseudo hip, to others whose primary style has been lost due to heavy modification.

The street-facing façade of the original structure will be rehabilitated but will retain its general 2 ½-story, gable-fronted form after renovation. The significant stylistic change to the building will be the construction of the modern style addition to the rear. Though this style is not found on other portions of Lake Street nor the immediate surrounding roads (Carlton, Olive Square, Hawkins, Church), this does not mean that a contrasting architectural style, if well-executed and skinned with quality materials, cannot be successful in this area.

Abutters can expect typical noises and odors associated with the construction phase of a project. There is also the possibility that there may be an up-tick in noise due when building residents use their rear yards. It is possible that additional shadowing of the right-abutting property may occur due to the nature of the proposed addition.



Due to the renovation of the existing two-family structure and the introduction of another residential unit on the site, the inclusion of additional bathrooms and added persons living on the parcel, there will be more demand placed on the City’s water supply and sewer system. Because this project will need to be reviewed by the Engineering Department prior to the granting of a building permit, they will determine if any measures need to be taken by the Applicant to address any impacts.

Lastly, the property is converting from a two-family to a three-family. In general, taken independently, the increase of one residential unit, even one with one or more vehicles associated with it, would not substantially increase the traffic volume in the immediate area. Due to residents coming and going from any property at staggering times, additional traffic congestion is not anticipated.

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.”

As conditioned, the Board finds the proposal to be inconsistent with the purposes of the RB district.

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

The Board has addressed the question of site and area compatibility in a previous section.

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

The proposal will not add to the existing stock of affordable housing.

6. SomerVision:

The proposal will add one residential unit to the City’s available housing stock.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Drew Kane and Elaine Severino. Upon making the above findings, Danielle Evans made a motion to approve the request for Special Permits. 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 for increase in GFA of more than 25% through the construction of a large addition, 1.0 space of parking relief, extension of non-conforming right side yard setback.	BP/CO	ISD/PIng.																							
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<p>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</p>																										
Engineering																										



2	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	
3	The Applicant must comply with all Engineering requirements pertaining to finishing basements.	BP/CO	Engineering/ISD	
Design				
4	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit. Vinyl-based products will not be considered.	BP	ISD/Plng	
Construction Impacts				
5	The Applicant shall, at his expense, replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standards.	CO	DPW	
6	All construction materials and equipment shall be stored on-site. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P/ISD	
7	The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to read.	During Construction	ISD	
8	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
Site				
9	The landscaping plan shall be altered as follows: - Location of trash and recycling shall be shown - Location of A/C condensers shall be shown The updated landscaping plan shall be submitted to Planning Staff for review and approval prior to the issuance of a building permit.	BP	ISD/Plng	



10	All hardscaping to be used on the property shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Plng	
11	All garbage and recycling shall be stored out-of-view of the public way and shall be screened	Perpetual	ISD/Plng	
Public Safety				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD	
14	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. This shall be written into any rental agreements or condo documents. Proof thereof shall be presented to Planning Staff/ISD prior to the issuance of a Certificate of Occupancy (CO)	CO/Perpetual	ISD/PlngFP	
Miscellaneous				
15	Venting and piping shall be painted or wrapped the same color as the exterior of the house from which they protrude.	CO	ISD/Plng	
16	Utility meters shall not be installed on the front façade of the structure.	CO	ISD/Plng	
Final Sign-Off				
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	ISD/Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
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 _____

