



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-146
Site: 2 Morrison Ave
Date of Decision: January 9, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 23, 2019

ZBA DECISION

Applicant / Owner Name: Tal Patlazaan and Sophie Simkin
Applicant / Owner Address: 2 Morrison Avenue, Somerville, MA 02144
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: Mark Niedergang

Legal Notice: Applicant/Owner, Tal Patlazaan and Sophie Simkin, seek a special permit under SZO §4.4.1 to alter a nonconforming structure by constructing a rear addition within the required left side yard setback that will be greater than 25% of the existing gross floor area (GFA) and a special permit under SZO §9.13 for parking relief. RB Zone. Ward 5.

<u>Zoning District/Ward:</u>	RB Zone. Ward 5.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 23, 2018
<u>Date(s) of Public Hearing:</u>	January 9, 2019
<u>Date of Decision:</u>	January 9, 2019
<u>Vote:</u>	5-0

Appeal #ZBA 2018-146 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall t. 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 January 9, 2019, the Zoning Board of Appeals took a vote.



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

The proposal is to construct a rear addition and construct dormers on both sides of the roof. An additional dwelling unit will be added to the site to make it a three-family dwelling.

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."*

Article 4: Nonconforming Uses and Structures

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, front yard setback, and left side yard setback.

The proposal will impact the following nonconforming dimension of the left side yard setback. The current dimension is 6'-6 1/4" and the proposed addition would be the same distance from the left property line. The side yard setback requirement in the RB district for a 2.5 story structure is 8 feet. 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 *"Alteration, reconstruction, extension or structural change to a nonconforming one- or two-family structure not affecting the nonconforming aspect of the one- or two-family structure and where the alteration, reconstruction, extension, or structural change will comply with all current dimensional requirements of the zoning ordinance, and provided any such alteration, reconstruction, extension or structural change does not increase the Gross Floor Area of the dwelling by more than twenty-five percent (25%)."*

The total increase in gross floor area (GFA) will be greater than 25%. The existing GFA is 4,512 s.f and the proposal is to add 1,164 s.f that will increase the GFA to 5,676 s.f, or 26% of the existing structure.

In considering a special permit under §4.4 of the SZO, the Board finds the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal will allow for the creation of an additional dwelling unit adjacent to the Community Path. 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, and right side yard setbacks, and street frontage 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 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 RB district, 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 characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: The property is located at the intersection of Morrison Avenue and Cedar Street. The Community Path directly abuts the subject property to the south. This particular side of Morrison Avenue is comprised of similarly styled two-family dwellings. There are a few other houses on Morrison Avenue that are used as three-family dwellings. Cedar Street is mostly residential in nature and nearby land uses include two, three, and multi-family dwellings as well as a two-story office building across the Community Path. Building heights in this area range from 2.5 stories to four stories.

Impacts of Proposal (Design and Compatibility): The proposal will add dormers to the existing structure and an addition in the rear. The slope of the proposed dormers is not considered by Staff to be a preferable design. Staff recommends a condition that revised plans be submitted to Planning Staff prior to the issuance of a building permit for their review and approval that shows the dormer slopes at no less than 3:12. Staff believes that with the revised dormer slope, the proposed design would be compatible with the surrounding neighborhood.

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.

DECISION:

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



Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes												
1	Approval is for the construction of a rear addition, the construction of dormers, and adding a dwelling unit. 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 23, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 15, 2018</td> <td>Plot Plan</td> </tr> <tr> <td>October 19, 2018</td> <td>Plans submitted to OSPCD (A-011, EX-100, A-102, and A-400)</td> </tr> <tr> <td>December 19, 2018</td> <td>Landscape Plan</td> </tr> <tr> <td>December 20, 2018</td> <td>Plans submitted to OSPCD (A-000 and A-020)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 23, 2018	Initial application submitted to the City Clerk's Office	August 15, 2018	Plot Plan	October 19, 2018	Plans submitted to OSPCD (A-011, EX-100, A-102, and A-400)	December 19, 2018	Landscape Plan	December 20, 2018	Plans submitted to OSPCD (A-000 and A-020)
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Any changes to the approved site plan or elevations/use 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.													
3	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng													
Construction Impacts																
4	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.													
5	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													



6	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	
7	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.	During Construction	ISD	
Design				
8	Applicant must 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.	
9	Applicant must provide revised elevation drawings showing dormer slopes at no less than 3:12 to Planning Staff for review and approval prior to the issuance of a building permit and approval showing	BP	Plng.	
Site				
10	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
11	The Applicant must submit a revised site plan that shows a 3.5 foot fence along the Cedar Street property line that wraps along a portion of the rear property line and relocates the shrubs away from the Morrison Ave. and Cedar St. intersection.	BP	Plng.	
Miscellaneous				
12	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.	
13	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.	
14	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				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	



17	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.	
Final Sign-Off				
18	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*
Danielle Evans
Elaine Severino
Anne Brockelman (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 _____

