



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

GEORGE J. PROAKIS
EXECUTIVE DIRECTOR

PLANNING DIVISION STAFF

SARAH LEWIS, *DIRECTOR OF PLANNING*
DAN BARTMAN, *SENIOR PLANNER*
SARAH WHITE, *PLANNER/PRESERVATION PLANNER*
CHARLOTTE LEIS, *PLANNER*
KAREN REYNOLDS, *ADMINISTRATIVE ASSISTANT*

Case #: ZBA 2018-124-R1

Date: February 5, 2020

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 15 Mossland Street

Applicant Name: 15 Mossland St, LLC
Applicant Address: 100 Trade Center, Suite G-700, Woburn, MA 02801
Owner Name: same as applicant
Owner Address: same as applicant
Agent: Mike Tokatlyan
Ward Councilor: Mark Niedergang

Legal Notice: 15 Mossland, LLC, under §5.3.8 of the SZO, seeks a revision to a previously-granted special permit (previous case # ZBA 2018-124). RB zone. Ward 5.

Dates of Public Hearing(s): February 5, 2020 – ZBA

I. PROJECT DESCRIPTION

1. Subject Property: The locus is currently a construction site. The locus was non-conforming under the prior zoning code in several respects including lot size and left side yard setback. This property was granted zoning relief under the prior zoning code on December 12, 2018. As the Applicant has begun exercising their development rights and no Certificate of Occupancy has been issued, the Applicant may request a revision to their previously-issued special permit under the prior zoning code.

2. Proposal: The Applicant is applying to revise the first condition listed in their approved December 12, 2018 Special Permit (condition provided in-text but also see Decision, attached). This condition refers to the plan set(s) for a project. The approved plan set called for the existing structure on the lot to be gut-renovated, additions constructed, and modifications to the roof made to allow for additional height. The approved plans did not call for the demolition of the structure.

After initially moving the original structure off of the foundation in order to pour a new one, the Applicant demolished the structure on the advice of their engineer, but without a permit from ISD to do so. Demolishing the structure is contrary to the approved plan sets submitted by the Applicant. Therefore, the Applicant has submitted an updated plan set reflecting that the original structure is demolished. There are no changes proposed to the design or dimensions of the structure that was originally approved, nor to the site or parking proposal.

On December 12, 2018, the Applicant received zoning approval for the following (special permit triggers indicated):

Left side yard setback (SPECIAL PERMIT)

A portion of the left façade of the existing structure terminated 0.8 feet from the property line. The main façade on this elevation sat 3.2 feet from the property line. Since the height of the structure was to increase, this created an upward extension of the non-conforming left side yard setback.

Parking (SPECIAL PERMIT)

The proposal required one (1.0) parking space of relief.

General scope of the approved project included the following:

- increase the number of units on the site from two to three,
- one on-site parking space proposed for each unit (3 spaces total)
- increase building height from 24'1" to 33'9"
- gut-renovate the interior, re-skin and re-trim the façade with additional architectural details (such as a right elevation oriel) added
- re-landscape site
- widen the structure on the right elevation
- construct two shed dormers measuring 50% or less of the roof plane to which they are attached on the right and left elevations
- construct first-story open porch along the left side of the renovated structure where the left and rear facades join

3. Green Building Practices:

The application stated that the project will not exceed the stretch code.

4. Comments:

Councilor Niedergang is aware of the circumstances surrounding this revision request.

II. FINDINGS FOR REVISION TO SPECIAL PERMIT (SZO §5.3.8):

Revisions that are not de Minimis shall be subject to the full notice and hearing provisions of §5.3.2 of this Ordinance, but shall not be subject to review by additional boards, departments, city agencies or commissions except as requested by the SPGA or upon the recommendation of the Planning Director. Applicable findings shall be made in accordance with the type of permit(s) being revised.

The applicable condition approved under the previous Special Permit granted by the ZBA in December of 2018 (ZBA 2018-124) that current circumstances affect is as follows:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to increase the number of units from one to three, create an upward extension of the non-conforming left side yard setback, and parking relief for one space.	BP/CO	ISD/PIng.							
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<p style="color: red;">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>										

III. RECOMMENDATION

Special Permit Revision under §5.3.8 of the SZO

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT REVISION**.

The recommendation is based upon a technical analysis by Planning Staff of the application material and based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the revision of the first condition listed in the original decision. The revised condition identifies updated plans that reflect the demolition of the original building on the project site.	BP/CO	ISD/PIng.									
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2	All other conditions from ZBA 2018-124 remain in effect.											

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PLANNING DIVISION
ZONING BOARD OF APPEALS MEMBERS

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RICHARD ROSSETTI, *CLERK*
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ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-124
Site: 15 Mossland Street
Date of Decision: December 12, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 26, 2018

ZBA DECISION

Applicant Name: Mike Tokatlyan, Manager of 15 Mossland Street, LLC
Applicant Address: 100 Trade Center, Suite G-700, Woburn, MA 02801
Owner Name: Umberto A. Rossetti & Charity A. Rossetti
Owner Address: 15 Mossland Street, Somerville, MA 02144
Alderman: Mark Niedergang

Legal Notice: Applicant, Mike Tokatlyan, Manager of 15 Mossland Street, LLC, and Owners, Umberto A. and Charity A. Rossetti, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming property by creating an upward extension of the non-conforming left side yard setback. Parking relief under Article 9 of the SZO. RB zone. Ward 5.

<u>Zoning District/Ward:</u>	RB zone. Ward 5.
<u>Zoning Approval Sought:</u>	SZO §4.4.1, Article 9
<u>Date of Application:</u>	September 13, 2018
<u>Date(s) of Public Hearing:</u>	December 12, 2018
<u>Date of Decision:</u>	December 12, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-124 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on December 12, 2018. 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 December 12, 2018 the Zoning Board of Appeals took a vote.



I. DESCRIPTION:

The Applicant proposes increasing the number of units on the site from two to three, with one on-site parking space proposed for each unit. The height of the building will increase from 24'1" to 33'9". In addition to a gut-renovation of the interior, the façade will be re-skinned and re-trimmed with additional architectural details (such as a right elevation oriel) added. The site will be re-landscaped. The structure will grow wider on the right elevation as an existing single-story addition and the current open space in front of it are absorbed into the renovated structure. Two shed dormers measuring 50% or less of the roof plane to which they are attached will be added to the right and left elevations. A first-story open porch is proposed along the left side of the renovated structure, where the left and rear facades join.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 and 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, generally, the information provided by the Applicant conforms to the requirements of §4.4.1 and 5.1.4 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."*

Regarding §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."

Left side yard setback

The Board acknowledges that the upward extension of the non-conforming left elevation of the structure will bring additional visual massing to this side of the property. The inclusion of a rear porch along the left elevation will provide residents of this unit with outdoor space and a covered access area to enter the unit at the rear. This structure and the left abutting property at 17 Mossland are both non-conforming with regard to their proximity to property lines.

The Board may want to consider reducing the size of the proposed porch such that it results only in enough covered space to provide protection to unit residents as they enter and exit the unit from this location.

Regarding Article 9 of the SZO

Current conditions present one (1) legal parking space on the site. Proposed conditions present three (3) parking spaces on-site. The existing single-family structure presents six (6) bedrooms, equating to a parking requirement of two (2.0) spaces. The parking analysis for existing and proposed conditions, shown in the table and formula below, result in the need for 1.0 space of relief.



Dwelling Area	Existing BDR	Parking Req.	Dwelling Area	Proposed BDR	Parking Req.
Unit 1	6	2.0	Unit 1	3	2.0
Unit 2	n/a	n/a	Unit 2	2	1.5
Unit 3	n/a	n/a	Unit 3	2	1.5
Total: 2.0			Total: 5.0		

Formula:

$$\text{new parking requirement} - \text{old parking requirement} = \# \text{ of new spaces}$$

$$5.0 \text{ spaces} - 2.0 \text{ spaces} = 3.0 \text{ spaces}$$

However, §9.5.2.a of the SZO states the following:

a. Existing 1 and 2 family residences converting to 2 or 3 family residences shall provide one (1) parking space per additional (e.g. newly created) dwelling unit. Also note that the provisions of Section 9.4 as to nonconformity with respect to parking are likely to apply in many instances.

EXAMPLE: A single family home is converting to a 2 family residence. One (1) space is required for each new dwelling unit created in the conversion. If the single-family home is converting to a 3 family residence, then two (2) parking spaces are required for the conversion — one (1) for each new unit.

Note that this is the parking required for the newly converted unit(s) and is additional parking above what is required for the existing site.

In the case of 15 Mossland Street, the existing lot is non-conforming with respect to parking. The lot should be providing two (2.0) legal parking spaces but can only provide one, and is, therefore, deficient by one parking space.

According to §9.5.2.a of the SZO, when a single family converts to a two or three family structure, the Applicant is required to provide only one parking space per additional unit. Three on-site parking spaces would be provided under proposed conditions. There should be a total of four parking spaces due to the requirements of the existing conditions (two spaces needed). There is not sufficient space on the lot for four legal parking spaces. Therefore, relief for one (1.0) parking space is needed.

Additional determinations

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board has conditioned this recommendation to further restrict the construction hours on the site to accommodate some neighborhood concerns. Lastly, the Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other in an urban setting.

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."



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 is cognizant of the fact that the height of the building will increase nearly 10 feet from where it is today. That said, this structure is the anomaly in the immediate area. This property is surrounded by 2 ½-foot gable-fronted structures along both sides of Mossland, one two-story Mansard, triple-deckers, a multi-unit, and a 3-story Mansard as the street approaches the intersection with Somerville Avenue. Creating a 2 ½-story gable-fronted structure is consistent with the character of the neighborhood.

In order to create a successful 2 ½-story structure from a 2-story structure, the Board worked with the Applicant team to alter the roof pitch and slope, knee-wall height, fenestration, window and oriel placement so that the proposed structure would be proportionate in appearance.

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 increase the number of available units in the City by two and will bring much-needed visual improvements to both the structure and the parcel.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Josh Safdie, Danielle Evans, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. In addition the following conditions were attached:

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Design										



1	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.	BP	ISD/Plng	
Design				
2	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.	BP	ISD/Plng	
Construction Impacts				
3	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 standard.	CO	DPW	
4	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/ISD	
5	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 see.	During Construction	ISD	
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/Plng/Eng.	
7	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	
8	Construction hours shall be limited to 7:30am – 5:00pm Monday through Friday. No holiday or weekend construction or construction –related work shall occur at the project site.	During construction	Traffic & parking	
9	As a courtesy to the neighborhood, there shall be no idling of vehicles or congregating of project-related personnel at the site prior to or after the hours noted above. There shall be no music played outside on the site out of respect to the neighborhood.			
10	The Applicant shall provide a Construction Traffic Management plan to the Traffic and Parking Department for their review and approval prior to the issuance of a building permit.	BP	Traffic & parking	
Public Safety				



11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
12	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
13	The building shall be sprinkled	CO	Fire Prevention/ ISD	
14	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO/perpetua l	ISD	
15	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetua l	ISD/PlngF P	
Site				
16	All bituminous material and cement shall be removed from the site. Pervious material such as permeable pavers, brick, pea stone and the like, shall be installed for all walkways, driving areas and parking areas.	CO	FP	
17	All materials to be used for all hardscaping and landscaping on the site shall first be submitted to Planning Staff for their review and approval prior to ordering and installation.	BP		
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
Josh Safdie
Anne Brockelman

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 _____

