



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-140
Site: 61 Myrtle Street
Date of Decision: February 20, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 6, 2019

ZBA DECISION

Site: 61 Myrtle Street

Applicant Name: Elan Sassoon
Applicant Address: 295 Upland Avenue, Newton, MA 02461
Owner Name: Rupesh S. & Laxmi Lama
Owner Address: 61 Myrtle Street, Somerville, MA
City Councilor: Matthew McLaughlin

Legal Notice: Applicant, Elan Sassoon, and Owners, Rupesh S. & Laxmi Lama, seek special permits under §4.4.1 of the SZO to alter a non-conforming property by reducing the rear yard setback, increasing the GFA by more than 25%. Unit count will increase from two units to three units. Parking relief under Article 9 of the SZO. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone. Ward 1.
<u>Zoning Approval Sought:</u>	SZO §4.4.1 and Article 9
<u>Date of Application:</u>	October 5, 2018
<u>Date(s) of Public Hearing:</u>	11/28, 12/12, 1/9, 1/23, 2/6/ 2/20
<u>Date of Decision:</u>	February 20, 2019
<u>Vote:</u>	4-0

Case # ZBA 2018-140 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 February 20, 2019 the Zoning Board of Appeals took a vote.



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I. Project Description

The Applicant proposes removing the carport and patio and constructing a substantial addition that will result in the creation of a third dwelling unit on the site. The triggers for special permitting are as follows:

Gross Floor Area (GFA)

As a result of the proposed addition, the GFA will be increased by more than 25%

Left side yard setback

Create an addition within the non-conforming left side yard setback. Left side yard setback is currently 1.6 feet in a zone where 8 feet is required. The Applicant proposes increasing the left side yard setback to 3.33 feet.

Rear yard setback

The rear yard setback is currently non-conforming at 9.8 feet in a zone where 20 feet is required. The Applicant proposes further reducing the rear yard setback to 8 feet.

Parking

Under existing conditions, the property should be providing four (4.0) parking spaces (3.5 spaces which is rounded up to 4.0). Yet, only two legal spaces exist. The Applicant proposes providing three (3.0) total parking spaces on site, which is equal to one parking space per residential unit.

In addition, the width of the parking area is too narrow to provide for three standard-sized parking spaces (9x18). There is sufficient space for two (2.0) standard parking spaces or three (3.0) compact spaces (8x16) when measured in front of the right side bump-out on the original house.

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%. Given the size of the new rear addition proposed by the Applicant, the GFA will be increasing by 94%.

Left side yard setback

The RB zone requires a left yard setback of 8 feet. The existing setback is non-conforming at 1.6 feet at its shortest point. The proposal will slightly improve the setback to 3.33 feet.

Rear yard setback

The RB zone requires a rear yard setback of 20 feet. This property is already non-conforming with a rear yard setback of 9.8 feet at its shortest point. The Applicant proposes reducing this rear yard setback further to 8 feet at its shortest point.

Though the existing building does have a series of rear additions, each of those additions is stepped in from and down from the roof line of the original structure, and thus reduces the visual massing of the added living space. Due to the size of the rear addition, there will be a significant increase in building massing at the rear of the property in particular.

The Board has conditioned this report to have the originally-proposed rear patios replaced with lawn in order for there to be meaningful, accessible green space for the residents of the two back units. The Board finds that, as conditioned, the proposal will provide an ample balance between landscaping and lawn area.

Parking

The Board noted in the “Proposal” section of this report that the 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. As Staff also noted in the “Proposal” section of the staff report, as presented, the proposal contains a parking area wide enough only for compact-sized cars. Therefore, a special permit is needed for this as well. The assessment regarding relief for number of parking spaces appears below:

Unit #	Existing BDR	Existing Req. Pkg.	Proposed BDR	Proposed Req. Pkg.
1	1	1.5	3	2.0
2	3	2.0	3	2.0
3	n/a	n/a	3	2.0
TOTAL: 3.5 (rounded to 4.0)			TOTAL: 6.0	

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

61 Myrtle: 6.0 – 4.0 = 2.0 spaces of relief needed



Other determinations

Myrtle Street presents a variety of houses of varying styles and sizes, from more recent multi-family structures to simple Italianates and gable-fronts to other houses altered beyond recognition of their original form and style. The majority of the structures on this street contain two or more residential units.

The proposed alterations to 61 Myrtle Street will be visible from the public way of Myrtle Street, left, right, and rear-abutting properties. The scale of the proposed addition is large in comparison to the scale and massing of the existing structure.

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, as 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."

There is no part of this proposal, as conditioned, that the Board finds 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. The Board has also conditioned the project to require an update to the landscaping plan prior to the issuance of a building permit.

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, Richard Rossetti, Elaine Severino, and Danielle Evans. 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 **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, 2.0 spaces of parking relief, relief to provide compact spaces in lieu of standard, extension of rear and left yard setbacks	BP/CO	ISD/PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 5, 2018</td> <td>Application submitted to City Clerk’s office.</td> </tr> <tr> <td>January 23, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 5, 2018	Application submitted to City Clerk’s office.	January 23, 2019	Updated plans submitted to OSPCD
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January 23, 2019	Updated plans submitted to OSPCD									
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.										
Engineering										
2	<p>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.”</p> <p>The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.</p>	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 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/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	<p>The landscaping plan shall be altered as follows:</p> <ul style="list-style-type: none"> - the pea stone noted on the left elevation of the property shall be changed to all vegetative landscaping - the permeable paver patios proposed at the rear of the property shall be converted lawn in order to reduce the amount of hardscaping on the lot - The pea stone proposed along the right side of the original house and directly in front of the new parking area shall be converted to landscaping - The two lawn areas proposed at at the front of the property shall be converted to landscaping <p>The updated landscaping plan shall be submitted to Planning Staff for review and approval prior to the issuance of a building permit.</p>	BP	ISD/Plng	



10	The depth of the permeable paver walkway at the front of the property shall be reduced in order to allow for vehicles to park on the permeable paver parking pad such that no portion of the parked vehicles breaks the front façade plane of the original house. Plans shall be updated to reflect this requirement and shall be submitted to Planning Staff for review and approval prior to the issuance of a building permit.	BP	ISD/Plng	
11	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	
12	All garbage and recycling shall be stored out-of-view of the public way and shall be screened	Perpetual	ISD/Plng	
Public Safety				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD	
15	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				
16	Venting and piping shall be painted or wrapped the same color as the exterior of the house from which they protrude.	CO	ISD/Plng	
17	Utility meters shall not be installed on the front façade of the structure.	CO	ISD/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	ISD/Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
Richard Rossetti

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 _____

