



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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Case #: ZBA 2018 - 194

Date: April 17, 2019 June 5, 2019

Recommendation: Revisions recommended

Some revisions have been made. The ZBA must determine if they are sufficient.

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**Updated PLANNING STAFF REPORT - ZBA**

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**Site:** 47 Oliver Street

**Applicant Name:** North America Development, LLC

**Applicant Address:** 93 Broadway, Somerville, MA 02145

**Owner Name:** Selma P. Damasceno

**Owner Address:** 47 Oliver Street, Somerville, MA 02145



**City Councilor:** Matthew McLaughlin

**Legal Notice:** Applicant, North America Development, and Owner, Selma P. Damasceno, seek special permits under §4.4.1 of the SZO to alter a non-conforming property including increasing the Gross Floor Area (GFA) by more than 25%, upward and linear extension of the non-conforming left side yard setback through the construction of a large rear addition. Number of units to increase from two to three. Parking relief under Article 9 of the SZO. RB zone. Ward 1.

**Dates of Public Hearing(s):** April 17, 2019, June 5, 2019 – ZBA

This staff report has been updated. Items that no longer apply have been struck through and new



information is highlighted in yellow.

## **I. PROJECT DESCRIPTION**

**1. Subject Property:** The locus presents a 2 ½-story, gable-fronted structure with two major rear additions. Each rear addition is gabled and steps in from the sides and down from the roofline to the portion of the house to which it is attached. A shed is currently extant on the left rear of the property. With the exception of the small front yard, the remainder of the locus is covered with bituminous material (asphalt).

**2. Proposal:** The entire property will be overhauled. Details follow and the triggers for special permitting are indicated.

- all bituminous material will be removed from the lot
- the concrete walkway along the left side of the property will be removed and the area will be landscaped
- the roofline of the original portion of the structure will be raised and changed from gable to flat
- the street-facing portion of the building will somewhat simulate a triple-decker appearance
- the number of units on the property will increase from 2 to 3
- the existing rear additions will be removed
- two flat-roofed additions will be constructed. The first of these additions will follow the existing, non-conforming left side yard setback. The second of these additions will step in slightly from the left line of the building. Each of these additions will house one residential unit. The new building will be constructed in the manner of a townhouse with one residential unit built behind the other, running “shotgun” down the lot toward the rear of the parcel.
- roof decks are proposed for each unit with separate head houses for each
- the front elevation single-story bay will become a three-story bay
- pervious pavers are proposed for the new driveway
- ~~at the top of the new driveway, grasscrete pavers are proposed for a driving/turning area~~
- two side-by-side parking spaces are proposed and one garage space under the rear
- the area at the rear of the building originally proposed for three parking spaces is now proposed as green space

## **TRIGGERS FOR SPECIAL PERMITTING**

### Left side yard setback

The existing left side yard setback is 3.8’ at the front of the building and 4.1’ where the rear-most addition steps in from the lot line. The applicant proposes a linear and upward extension of the 3.8’ left side yard setback. These intensifications are created through the construction of the new addition at the rear of the property (which will house Unit #2). Where the third

### Gross Floor Area (GFA)

Due to the increase in floor area created by the upward extension of the original structure plus the two new, larger rear additions, the GFA of the property will increase by more than 25%.

### Parking

Two parking spaces of relief are needed. See analysis later in this report.

## **3. Green Building Practices:**

The application states the following: “Limitation of demo material, recycling where possible to reduce solid waste disposal. Use of water saving plumbing fixtures. Use of energy efficient lighting. Reduction

of non-permeable asphalt paving. Addition of non-invasive species landscape planting.”

#### **4. Comments:**

*Ward Councilor:* Ward 1 Councilor Matthew McLaughlin is aware of this project and sponsored a neighborhood meeting on this project on April 2, 2019.

*Planning Staff:* Planning Staff has been working with the applicant team for a few months on different iterations of this proposal. Staff recognizes and appreciates the efforts of the applicant team to-date.

The initial proposal submitted showed the original main house being largely retained in form and massing, and a large, block-form, modern addition added to the rear of the building. Staff did not find that the proposal met the criteria for site and area compatibility due to the massing, design, form, and style of the proposed rear additions.

The second iteration of the plans was similar in design, massing, form, and style to the plans currently under review by the ZBA. However, the roof decks and associated pergolas were much larger, the second and third townhouse at the rear of the property maintained the 3.8’ setback line rather than being stepped in, detailing on the front façade was minimal and the townhouse entrances faced the driveway rather than the public way.

After additional feedback from the Planner and sketched changes to the roof decks and associated pergolas from the Planning Director, the applicant team submitted the latest plans. The rear-most townhouse has been slightly stepped in, townhouse entrances were turned to face the public way, additional detailing was added, particularly to the front façade, and the roof deck/pergola areas were reduced in size.

What has not changed is the overall massing of the structure which Staff finds to be overwhelming for the lot and certainly for the left property line. Staff recommended that the Applicant stack the units in a true triple-decker style. The applicant team contends that buyers do not wish to live in a traditional triple-decker fashion and that a recently-permitted project on the left-abutting property, 51 Oliver Street, has a similar townhouse appearance and configuration to that proposed at 47 Oliver.

As was noted to the applicant team, Staff reminds the ZBA that simply because the project at 51 Oliver Street was permitted does not mean that the proposal for 47 Oliver Street needs to be approved in its current form; each proposal is taken on its own merits with no legal precedence being set by other ZBA decisions.

It is the position of Planning Staff that the proposal at 47 Oliver Street would be more consistent with the surrounding area if the property were constructed in a true triple-decker format with stacked units. Given that each of the proposed townhouses range from just over 1,100 square feet to just over 1,200 square feet, such reasonably-sized units could be achieved in the stacked triple-decker format.

By converting to this stacked format, the great length of the new structure (which is currently proposed at 77’ 6 1/2” in length) could be significantly reduced. The reduction in the length of the new building would open up a great amount of open space on the lot. As currently proposed, the only meaningful outdoor space on this lot will be in the form of roof decks. All of the remaining open space on the lot will be consumed by driveway and parking area. Reducing the length of the building and stacking the units would further allow for the typically-seen rear decks for each unit and would open up usable green space in the rear yard available to all unit residents.

The 3.8-foot strip of landscaping along the left elevation of the new building and the small patches of green in front of each townhouse unit might provide a nice bit of landscaping to look at, but do not provide meaningful green space for resident use. Further, garbage and recycling areas will need to be provided on the site; their locations have yet to be identified on the submitted plans. The most likely location for those areas is along the left elevation of the property so that 1) they are not positioned directly in front of the main entrance to each townhouse and, 2) so that they do not intrude on the already-difficult-to-manuever turning/driving area at the top of the driveway.

Staff further recommends that less than three parking spaces be provided on-site, the purpose being to open up more green space. The driveway is of a width that it can accommodate one car legally. Should future residents agree to work out a tandem parking arrangement amongst themselves, then they may do so. Oliver Street has ample street parking on both sides of the street. Most other properties on the street have driveways, some significant in size, in which other residents of the street can park, further reducing the impact on on-street parking.

It does not go unnoticed by Staff that the ZBA and the Planners must continually fight to balance the need for meaningful open space on our residential lots with the quest for parking spaces. However, given the direction in which the City is going in terms of reducing vehicular dependency and, noting the numerous studies conducted to this effect, Staff finds that this particular case lends itself to tilting the balance in favor of adjusting the proposal for 47 Oliver Street toward usable, at-grade outdoor space for the future residents of this parcel rather than toward dedicating this space for vehicle parking.

**Planning Staff Update:** Since this case was first discussed by the ZBA on April 17, 2019, the Applicant has removed the three parking spaces and turnaround area from the left rear of the property, thus opening up more green space. Two side-by-side spaces are proposed at the end of the driveway and an under-building garage has been included to accommodate one parking space under the third unit.

However, it is unclear to Staff, as the dimensions are not included in the submitted plans, as to whether the parking spaces proposed are compact or standard and what the dimensions are for the turnaround area for the car exiting the garage.

The roof decks remain in place and the entirety of the rear parking/turnaround area has not been removed.

## **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:**

Staff 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.”***

#### **Left side yard setback**

The RB zone requires a 10-foot side yard setback for a three-story building (footnote 7 of Section 8.5.H of the SZO). The existing left side yard setback is 3.8 feet toward the front of the property and 4.1 feet toward the rear. The Applicant proposes maintaining this existing 3.8’ setback for the first and second townhouse unit. The third townhouse unit will step further away from the property line, but Staff cannot find where this new distance has been indicated on the plan set.

However, when a townhouse structure is proposed, as is the case with 47 Oliver, the following rule applies as cited in footnote 9 Section 8.5.H of the SZO:

*Side yards for townhouse buildings: Whenever a building of two (2) or more townhouse units is built with a common fire wall with another dwelling, the side yards shall be at least fifty (50) percent greater than the minimum widths prescribed above in footnote 7. [Emphasis, Staff]*

Therefore, in the case of 47 Oliver Street, the minimum required setback should be at 15 feet. The existing conditions are significantly under this amount. While Staff can support a triple-decker with this setback as it is -a common scenario throughout the City- Staff cannot support exacerbating this setback for a townhouse building.

A townhouse building presents a greater amount of massing on this property than other allowable building forms and designs would. As-proposed, this building would present largely one solid 77-foot, 6½-inch, 3-story structure running along the left property line. The purpose of the increased setback requirement for a townhouse is to pull this looming building mass away from the property line, to help reduce its visual impact on an abutting property (irrespective of whether the abutter is concerned with this visual massing or not), and to reduce the appearance of massing from other perspectives along the street. Though it may be argued that the proposed townhouse structure is only 8 feet longer than the existing structure on the lot (the existing structure is 71’ 7”), the massing of this new structure is additive on-the-whole: not only in the overall amount of square footage added to the building, but in terms of accumulated vertical and horizontal massing added to the rear of the building through repetitive forms (individual townhouse units).

Staff finds that the proposed structure is inconsistent with the overall neighborhood character and will present a visual effect on the street that highlights how incongruous the building would be compared to the rest of the built environment along this public way. Again, that 51 Oliver Street was earlier approved by the ZBA does not set a precedent for the ZBA to approve the proposal at 47 Oliver Street.

#### **Gross Floor Area (GFA)**

When the GFA of a property is increased by more than 25%, a special permit is required. Due to the increased space created by the construction of a full third story along with the increase in footprint and living area due to two new additions at the rear of the building, the GFA will increase by more than 25%.

**Parking**

Staff 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. The assessment regarding relief for number of parking spaces appears below:

Unit #	Existing BDR	Existing Req. Pkg.	Unit #	Proposed BDR	Proposed Req. Pkg.
#1	2	1.5	#1	3	2.0
#2	3	2.0	#2	3	2.0
#3	n/a	n/a	#3	3	2.0

**TOTAL: 4.0**  
 (rounded from 3.5)

**TOTAL: 6.0**

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

***47 Oliver: 6.0 – 4.0 = 2.0 spaces of relief needed***

**Other determinations**

This portion of Oliver Street is a two-way street bound by Glenn and Cross Streets. Most of the structures on this portion of Oliver Street are 2 ½-story gable-fronted residential buildings with the occasional two-story and older, multi-plex interloper. There is minimal green space and an excessive amount of bituminous material on the private properties along this street.

Abutters can expect typical noises and odors associated with the construction phase of a project.

Due to the conversion of the structure from a two-family to a three-family, the introduction of another residential unit on the site along with 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, including possible payments.

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. It is certainly possible that there will be additional cars parked along Oliver Street. Staff noted the parking situation on Oliver Street at the outset of this report. This area is well-served by several bus routes and is about a 16-minute walk to the Sullivan Square T Station where additional bus routes can be picked up.

**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.”*

Staff finds that, in general, the proposed 3-family use 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.” However, please refer to Staff’s earlier comments regarding the particular aspects of this proposal that Staff finds does not meet the findings necessary for conditional approval, irrespective of its general compliance with being a 3-family proposal in a zone that permits 3-family structures.

**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."***

Staff has addressed the question of site and area compatibility in the Comments portion of this report. Staff reiterates those findings here.

**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:**

While the proposal will add one additional residential unit to the City’s available housing stock, will improve the appearance of the structure on the property and remove the bituminous material, Staff finds that the proposal could do much better in terms of providing quality outdoor space for the building’s future residents. Earlier in this report, Staff proposed a way in which this improvement could be realized.

**III. RECOMMENDATION**

**Special Permit under §4.4.1 and Article 9**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff offers no recommendation and **THAT THE ZBA DETERMINE WHETHER THE REVISIONS MADE ARE SUFFICIENT** for the requested **SPECIAL PERMITS**.

The recommendation is based upon a technical analysis by Planning Staff of the application material 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
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1	Approval is to increase the number of dwelling units from one to <del>two</del> <b>three</b> , upward extension of the non-conforming left side yard setback, increase in GFA by more than 25%, relief for two parking spaces.	BP/CO	ISD/Plng.											
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 20, 2018</td> <td>Application submitted to City Clerk’s office.</td> </tr> <tr> <td>February 5, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>March 15, 2019</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td><b>May 15, 2019</b></td> <td><b>Updated plans submitted to OSPCD</b></td> </tr> </tbody> </table>				Date	Submission	December 20, 2018	Application submitted to City Clerk’s office.	February 5, 2019	Updated plans submitted to OSPCD	March 15, 2019	Updated plans submitted to OSPCD	<b>May 15, 2019</b>	<b>Updated plans submitted to OSPCD</b>
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<b>May 15, 2019</b>	<b>Updated plans submitted to OSPCD</b>													
<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>														
<b>Engineering</b>														
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 including, but not limited to I/I payments.</p>	BP	Engineering/ISD											
3	The Applicant must comply with all Engineering requirements pertaining to finishing basements.	BP/CO	Engineering/ISD											
<b>Design</b>														
4	<b><u>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.</u></b>	BP	ISD/Plng											
5	The proposal shall be changed to a stacked triple-decker format, the building shortened from the 77’6 ½” proposal in order to provide usable backyard green space.	Submit to ZBA for review												



6	The roof decks shall be removed. Rear decks shall be constructed on a re-designed, stacked triple-decker (see condition 5 above). Decks shall have vertical balusters. <i>The roof decks remain in place on the latest proposal. The ZBA must decide if they are agreeable to this or not.</i>	Submit to ZBA for review		
<b>Construction Impacts</b>				
7	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	
8	All construction materials and equipment shall 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	
9	<b><u>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.</u></b>	During Construction	ISD	
10	<b><u>Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur, including finish work and deliveries.</u></b>	During Construction	ISD	
11	A construction traffic management plan shall be submitted to Traffic and Parking for their review and Approval.	BP	ISD/T&P	
<b>Site</b>				
12	The driveway and any parking area shall be constructed of permeable pavers or pea stone, or similar, based on the review and approval of Planning Staff.	BP	ISD/Plng	
13	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	
14	All bituminous material and/or cement used for driveways, walkways, parking areas, patios, and the like shall be removed from the property.	CO	ISD/Plng	
15	All garbage and recycling shall be stored out-of-view of the public way and shall be screened.	Perpetual	ISD/Plng	
16	An updated landscape/site plan shall be submitted to the ZBA indicating the location of the recycling/garbage storage areas.	Submit to ZBA for review		

17	The rear parking and turning area shall be removed and open space provided (no hardscaping). At least one tree shall be proposed in this area. This shall first be provided on an updated site plan submitted to the ZBA. <i>The updated proposed plans do not show the entirety of this rear parking/turnaround area removed. The ZBA must decide if they are agreeable to this or not.</i>	Submit to ZBA for review		
<b>Public Safety</b>				
18	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
19	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD	
20	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches, <b>including roof decks</b> . 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/PIngFP	
21	The building shall be sprinkled.	CO	ISD/FP	
<b>Miscellaneous</b>				
22	Venting and piping shall be painted or wrapped the same color as the exterior of the house from which they protrude. <b>Venting and piping shall not protrude from the Oliver Street façade of the building.</b>	CO	ISD/PIng	
23	Utility meters shall not be installed on the front façade of the structure.	CO	ISD/PIng	
24	All new or enlarged window openings that are located 3 feet or less from a property line are required to be fire-rated, inoperable per building code. The Applicant shall work with ISD to ensure compliance.	CO	ISD	
25	<del>The Applicant shall test the left abutting property for any moisture related issues along the left elevation of the abutting property only. The Applicant shall perform this test prior to the start of the construction process in order to obtain a baseline for any moisture issues. The Applicant shall install a moisture monitoring system that will track moisture in this part of the structure in the future so that the left abutting property owner can monitor moisture levels.</del> <b><i>This was a copy-and-paste error and the condition is irrelevant to this project.</i></b>	<del>Prior to start of construction/CO</del>	ISD	
<b>Final Sign-Off</b>				

26	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.	
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