



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-186
Site: 50 Oliver Street
Date of Decision: February 20, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 6, 2019

ZBA DECISION

Site: 50 Oliver Street
Applicant / Owner Name: Popjoy, LLC
Applicant / Owner Address: 21 Graylynn Road, Newton, MA 02459
Agent Name: Adam Dash, Esq.
Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144
Councilor: Matthew McLaughlin

Legal Notice: Applicant and Owner, Popjoy, LLC, seeks a special permit under §4.4.1 to alter a nonconforming structure and under §9.13 for parking relief to finish the basement that will add living space to the two first floor units. RB Zone. Ward 1.

Zoning District/Ward: RB Zone. Ward 1.
Zoning Approval Sought: SZO §4.4.1 and §9.13
Date of Application: December 18, 2018
Date(s) of Public Hearing: 2/6, 2/20
Date of Decision: February 20, 2019
Vote: 4-0

** After further analysis by Planning Staff, it has been determined that a special permit for parking relief is no longer required.*

Case # ZBA 2018-186 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.



I. PROJECT DESCRIPTION

The proposal is to finish a large portion of the basement to add living area to each of the two first floor units. Four dwelling units and four parking spaces will be maintained. The two second floor units will remain three bedrooms units, while one of the first floor units will become a five-bedroom unit and the other will become a four-bedroom unit.

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 use as a four-unit dwelling and the following dimensional requirements: lot area, lot area per dwelling unit, landscaped area, pervious area, front yard setback, left side yard setback, and right side yard setback.

The proposal will not impact any of the nonconforming dimensions. The only dimensional requirement being altered is the floor area ratio (FAR). The current FAR is 0.74 and the proposed to add 1,380.95 square feet of living space in the basement will increase the FAR to 1.0, which is the maximum allowed in the RB zoning district. 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 “[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.”

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal will allow for existing residential units to become larger without having any impact on existing nonconformities. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage, FAR, building height, rear yard setback, and street frontage will continue to be conforming to the requirements of the SZO.



Article 9: Off-Street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	3 BR	2 spaces	4 BR	2 spaces
Unit #2	3 BR	2 spaces	5 BR	2 spaces
Unit #3	3 BR	2 spaces	3 BR	2 spaces
Unit #4	3 BR	2 spaces	3 BR	2 spaces
Total	8 spaces		8 spaces	

The site currently provides four parking spaces for the existing dwelling units where eight are required. Therefore, the site is nonconforming with respect to the number of required off-street parking spaces. For sites with a nonconforming number of parking spaces, SZO 9.4.2 only requires a proposal to provide the number of required spaces for what is being added to the site. The proposal is to add bedrooms to existing dwelling units, which will **not** increase the number of required parking spaces; **therefore a special permit for parking relief is not required.**

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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; 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 subject property is located on the southern side of Oliver Street on the block between Cross Street and Glen Street. This is a residential block that contains a mix of structures ranging from two, 2.5, and three story structures.

Impacts of Proposal (Design and Compatibility): Finishing the basement will not have an impact on the design and compatibility of the structure with the surrounding area.

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.



III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Elaine Severino. 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	<p>Approval is for the finishing of the basement. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 18, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 18, 2018</td> <td>Plans submitted to OSPCD (T1, D1.0, D1.1, and A1.0)</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	December 18, 2018	Initial application submitted to the City Clerk's Office	December 18, 2018	Plans submitted to OSPCD (T1, D1.0, D1.1, and A1.0)	BP/CO	ISD/Plng.	
Date (Stamp Date)	Submission									
December 18, 2018	Initial application submitted to the City Clerk's Office									
December 18, 2018	Plans submitted to OSPCD (T1, D1.0, D1.1, and A1.0)									
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.							
Construction Impacts										
3	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.							
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							
5	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							
Miscellaneous										
6	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.							

7	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				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
9	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*
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 _____

