



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

GEORGE J. PROAKIS
EXECUTIVE DIRECTOR

PLANNING DIVISION
ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
DANIELLE EVANS, *CLERK*
RICHARD ROSSETTI
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-145
Site: 28 Otis Street
Date of Decision: January 23, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 11, 2019

ZBA DECISION

Applicant Name: Gina D. Tauro & Jonathan M. Nascimento
Applicant Address: 1060 Franklin Street, Melrose, MA 02176
Owner Name: Gina D. Tauro & Jonathan M. Nascimento
Owner Address: 1060 Franklin Street, Melrose, MA 02176

Legal Notice: Applicants and Owners, Gina D. Tauro & Jonathan M. Nascimento, seek to alter a non-conforming property under §4.4.1 of the SZO. 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 22, 2018
<u>Date(s) of Public Hearing:</u>	12/12, 1/23
<u>Date of Decision:</u>	January 23, 2019
<u>Vote:</u>	5-0

Case # ZBA 2018-145 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 January 23, 2019 the Zoning Board of Appeals took a vote.



I. DESCRIPTION:

Through the construction of a two-bedroom addition over a portion of the existing garage, the Applicant proposes adding one unit to the property. The two existing units on the property will not be renovated as a part of this proposal.

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 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."

Article 9 of the SZO

Section 9.13 of the SZO addresses parking requirements per dwelling unit and provides a mechanism for relief from providing the required number of parking spaces on a property if the Special Permit Granting Authority (SPGA) determines that certain thresholds are met. The breakdown for parking relief for 28 Otis Street appears immediately below:

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	2	1.5	Unit 1	2	1.5
Unit 2	4	2.0	Unit 2	4	2.0
Unit 3	n/a	n/a	Unit 3	2	1.5

Total: 3.5 (rounded to 4.0)

Total: 5.0

Formula:

*new parking requirement – old parking requirement = # of spaces of relief needed**

5.0 spaces – 4.0 spaces = 1.0 space



**When this result is a negative number or >1 , no parking relief is needed. The result of this formula is then compared against the number of spaces that the applicant proposes to provide on the site. If this number is greater than the number of spaces of relief needed, then no special permit for parking relief is required.*

Under existing conditions, the property provides three (3) parking spaces: one in the garage and two, legal-sized parallel parking spaces in the driveway. Though one of the parallel spaces terminates in front of the front plane of the residential structure, this is considered an existing, non-conforming front yard parking space.

The Board finds that providing relief for one parking space would not impose an undue burden on the surrounding neighborhood. The Board has conditioned this report to require that the Applicant assign one parking space to each unit and that this should be put in either rental agreements or condo documents.

Pursuant to Section 9.13 of the SZO, the Board provides the following assessment of this project against the following categories:

1. Increase in traffic volumes

The density on this site will increase from two residential units to three residential units. There exists the possibility of additional vehicles using this site and surrounding streets to enter and exist the property once the project is complete. Taken independently, an increase of one residential unit and a minimum of one car associated with each, the Board does not find would constitute any significant increase in traffic volumes.

2. Increased traffic congestion or queuing of vehicles

As noted above, the Board does not find that the increase of one residential unit on the site will create traffic congestion or queuing of vehicles – either entering or existing the site or the immediate area. People leave and return for work and errands at different times during the day.

3. Change in the type(s) of traffic

As the use of the property is remaining residential, a change in the types of traffic is not anticipated. The neighborhood can expect some up-tick in construction-related traffic during the active construction period on the site. However, this type of traffic will be limited to the project duration.

4. Change in traffic patterns and access to site

The traffic pattern on Otis Street will remain as it does today. Access to the site will be from the same direction as current.

5. Reduction in on-street parking

Because one additional residential unit is being added to the property, it is fair to say that there may be an increase in the number of vehicles used by residents of the site and, consequently, there may or may not be a need for some of the residents and their guests to use on-street parking.

6. Unsafe conflict of motor vehicle and pedestrian traffic

The Board anticipates that the traffic volume entering and leaving this property will remain largely the same, despite the increase of one residential unit on the property.

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.” The two-to-three unit proposal is consistent with what is allowed in the RB zone from a site density perspective.

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 proposal, as conditioned, will provide visual upgrades to this property both on the house and in terms of landscaping. Of further benefit is that a condition of this approval requires the removal of all bituminous material and concrete from the site and its replacement with pervious material. This will significantly improve the permeability of the parcel which, as stated earlier, is nearly completely covered by the connected house and garage.

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 improve the visual appearance of an existing property and will add one more dwelling units to the City’s housing stock. The permeability of the parcel will also be improved.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Josh Safdie, Danielle Evans, 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 **WITH CONDITIONS**. The following conditions were attached:



#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for one (1) parking space of relief.	BP/CO	ISD/PIng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 28, 2019</td> <td>Application submitted to City Clerk's office.</td> </tr> </tbody> </table> <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>			
Date (Stamp Date)	Submission			
October 28, 2019	Application submitted to City Clerk's office.			
Engineering				
2	The Applicant/Owner must obtain a street address for the new unit from the Engineering department prior to the issuance of a building permit	BP	ISD/Engineering	
3	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/PIng/Eng.	
4	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	
Design				
5	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/PIng	
6	Existing vinyl trim shall be removed. Any wood trim extant under the vinyl shall be used if in good repair. If not in good repair, wood (not pine) or composite trim shall be installed. Modern soft woods such as pine should be avoided due to its poor quality and lack of longevity.	CO	ISD/PIng	
7	If retained, the existing siding shall be repainted.			
Construction Impacts				
8	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	



9	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	
10	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	
11	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
Public Safety				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
14	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/PIngr P	
Site				
15	The small area of land between the front façade of the house and the sidewalk shall be re-landscaped. A complete landscaping plan that includes plant types, number, and their locations shall be submitted to Planning Staff for their review and approval prior to the issuance of a Building Permit. The plan shall ensure that the concreted foundation and front stoop are masked with year-round greenery.	BP	ISD/PIngr	
16	All plantings and their locations along with all hardscaping materials, design and location for driveways, walkways, fencing, etc., shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIngr	
17	The cement front sidewalk shall be removed and pervious material shall be installed (see other conditions relating to Staff review of materials).	CO	ISD/PIngr	
18	No vents shall exit on the Otis Street façade of the structure. All venting, pipes, conduits and the like shall be painted the same color as the exterior of the structure from which they protrude.	CO	ISD/PIngr	
19	Utility meters shall not be installed on the front façade of the building (Otis Street façade).	CO	ISD/PIngr	
20	All bituminous material shall be removed from the site.	CO	ISD/PIngr	
21	The driveway shall be re-constructed using pervious pavers, brick, or similar per the review and approval of Staff.	CO	ISD/PIngr	
22	All materials for hardscaping shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit	BP	ISD/PIngr	
23	Vinyl siding, trim, fencing, or decking material shall not be used on this site	CO	ISD/PIngr	



24	All mechanicals shall be screened from view from the public way. All screening materials shall be reviewed and approved by Planning Staff prior to installation	CO	ISD/Plng	
25	The location of mechanicals (such as AC condensers) shall be first reviewed and approved by the Zoning Review Planner prior to their installation.	BP	ISD	
26	Garbage and recycling shall be stored out-of-view from the public way and shall be screened. Screening material and storage location shall first be reviewed and approved by Planning Staff	CO	ISD	
27	The existing fence along the Otis Street frontage shall be removed. A new fence shall be installed such that it terminates no higher than 3 ½ feet off of grade, as per zoning requirements for front yard fences. To achieve this, the concrete curbing separating the front of the parcel from the sidewalk may need to be removed.	CO	ISD/Plng	
Miscellaneous				
28	The Applicant shall assign one parking space per unit. This assignment shall be placed in rental agreements or condo docs. Proof thereof shall be uploaded to CitizenServe for review prior to the issuance of a Certificate of Occupancy.	CO	ISD/Plng	
Final Sign-Off				
29	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
Josh Safdie
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 _____

