



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-115
Site: 91 Perkins Street
Date of Decision: January 17, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 31, 2018

ZBA DECISION

Applicant / Owner Name: 91 Perkins St. LLC
Applicant / Owner Address: 91 Perkins St., Unit 1, Somerville, MA
Alderman: Matthew McLaughlin

Legal Notice: Applicant and Owner, 91 Perkins St., LLC, seeks Special Permits under §4.4.1 of the SZO to increase the landscaping from 0% to 2%, enlarge an exterior door and add two emergency egress openings to a legally-existing, non-conforming 9-unit residential structure. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RA Zone. Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 26, 2017
<u>Date(s) of Public Hearing:</u>	January 17, 2018
<u>Date of Decision:</u>	January 17, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2017-115 was opened before the Zoning Board of Appeals in the Aldermanic Chambers of Somerville City Hall, 93 Highland Avenue. 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. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



DESCRIPTION:

- 1. Subject Property:** The subject property is a 9-unit, three-story residential structure located in on a 7,700 square-foot lot in the RB zone.
- 2. Proposal:** The Applicant proposes adding a new rear egress door with accompanying steps, an enlarged rear window opening, enlarging an existing right elevation window opening for a new egress window and accompanying window well, enlarging an existing left elevation window to create an egress window. An accompanying window well will also be installed.
- 3. Green Building Practices:** The Application states that: “the proposed windows for the emergency escape/rescue opening will perform thermally [sic] better than the existing window.”
- 4. Comments:**

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 §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 Applicants conforms to the requirements of §4.4.1 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."***A. Under SZO §4.4.1**

Section 4.4.1 states that “[l]awfully existing non-conforming 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 non-conforming 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.”

Of the alterations proposed for this property, only the rear egress door and window and the enlarged left egress window and accompanying window well trigger the need for a Special Permit under §4.4.1 of the SZO as they all rest within the setbacks for their respective elevations. Overall, Staff finds that each of the proposed alterations to this non-conforming structure will not be substantially more detrimental to the neighborhood or the site than the existing non-conformities currently extant on the property. Each of these proposed alterations is described



below:

Rear egress door and steps: The proposed egress door falls within the rear yard setback. The required rear yard setback for the RB district is 20 feet unless the lot is shallow. In the cases of shallow lots, a rear yard setback can still be no less than 10 feet. The rear yard setback at 91 Perkins Street is 7.9 feet, non-conforming even with allowances given for a shallow lot.

The proposed egress door set into the rear façade of the building will not increase the non-conforming rear yard setback. The rear yard setback will remain at the same non-conforming 7.9 feet. The new access stairs to reach this new rear door will extend further into the rear setback by 3'8", reducing the rear yard setback in this specific area to 4'1". Between the outer edge of this new access stairwell, the Applicant proposes new landscaping. In addition, a new trench drain and pervious pavers will be installed to assist with water drainage. The new trench drain will connect to the existing drainage system. An existing rear shed will be removed to allow for additional landscaping and more pervious pavers intended to create a small outdoor sitting area.

Enlarged rear window: The Applicant proposes enlarging an existing window opening at the right rear of the building. This window is within the rear yard setback but will not further encroach into that setback. As this will not be an emergency egress window, no window well needs to be installed.

Enlarge left elevation window/well: The Applicant proposes enlarging an existing left elevation window in order to create a new emergency egress window. A window well will also be installed. The left side yard setback is currently non-conforming a less than 5 feet. The installation of the new window well will reduce the left side yard setback to just over 1 foot. A fence exists directly in front of where this window well will rest. However, there is sufficient roof for persons to exit the left side of the window well and exit the property directly onto the public sidewalk.

3. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6".*

Staff finds that the proposed project at 91 Perkins Street complies 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. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The proposal will not add to the existing stock of of the City's affordable housing units.

5. 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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*



The proposed alterations to this property contribute to SomerVision by increasing the safety standards of two of the units contained within this property.

DECISION:

Special Permit under §4.4.1

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to enlarge a rear window, install a rear egress door and accompanying access stairs, enlarge an existing left elevation window to create an emergency egress window and accompanying window well.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 26, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>January 2, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 26, 2017	Initial application submitted to the City Clerk's Office	January 2, 2018	Updated plans submitted to OSPCD
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<p><u>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.</u></p>										
Design										
2	Applicant shall provide to material samples for all exterior materials to be used on this project. These materials shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	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	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.							



5	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application form signed
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	
7	<u>Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays.</u>	During Construction	ISD	
8	The Applicant shall ensure that all food waste associated with construction personnel be removed from the premises at the end of each work day.	During Construction	ISD	
Site				
9	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	
10	All landscaping materials, screening materials, and materials used for parking/driveway areas shall first be reviewed and approved by Planning Staff prior to their installation and again prior to final sign-off.	BP/CO	Plng/ISD	
Public Safety				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
12	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*
Elaine Severino
Daniel Evans
Josh Safdie

Attest, by City Planner: _____

Alexander C. Mello

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 _____

