



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2019-41
Site: 11 Rossmore Street
Date of Decision: August 21, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: August 22, 2019

ZBA DECISION

Site: 11 Rossmore Street

Applicant / Owner Name: The Rossmore LLC

Applicant / Owner Address: 10 Overlook Ridge Drive #330, Malden, MA 02148

Agent Name: Adam Dash, Esq.

Agent Address: 48 Grove Street, Suite 304, Somerville, MA 02144

City Councilor: J.T. Scott

Legal Notice: Applicant / Owner, The Rossmore LLC, seeks a special permit with site plan review under SZO §7.2 to erect a second principal structure on the lot. The proposal is to demolish the existing structure and build a new single family dwelling and a two-family dwelling. A special permit under SZO §9.13 for parking relief is also required. RB Zone. Ward 2.

<u>Zoning District/Ward:</u>	RB Zone. Ward 2
<u>Zoning Approval Sought:</u>	SZO §7.2 and §9.13
<u>Date of Application:</u>	April 17, 2019
<u>Date(s) of Public Hearing:</u>	July 17, 2019 and August 21, 2019
<u>Date of Decision:</u>	August 21, 2019
<u>Vote:</u>	4-0

Case number ZBA 2019-41 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 August 21, 2019, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

I. PROJECT DESCRIPTION

The proposal is to demolish the garage and construct two principal structures on the lot. One structure is intended to contain two units and the other is intended to be single family. In total the lot will contain three three-bedroom dwelling units. The proposal will provide three parking spaces (one per unit) and improved landscaping.

II. FINDINGS FOR SPECIAL PERMIT and SPECIAL PERMIT with SITE PLAN REVIEW (SZO §9.13 and §7.2):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”*

Article 7: Permitted Uses

SZO §7.2 allows for more than one principal structure per lot in the RB zoning district by Special Permit with Site Plan Review granted from the Zoning Board of Appeals.

Article 9: Off-Street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	-	-	3 BR	2 spaces
Unit #2	-	-	3 BR	2 spaces
Unit #3	-	-	3 BR	2 spaces
Total	0 spaces		6 spaces	

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is six or fewer. The locus will become nonconforming with respect to the number of required off-street parking spaces as six spaces are required and only three will be provided on the site. Relief is being requested from providing the additional three parking spaces.

In considering a special permit under §9.13 of the SZO “the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4”. The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

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”.*



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 existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Surrounding Neighborhood: Rossmore Street is located just east of Union Square. It connects Washington Street and Somerville Avenue. It is primarily a residential street with commercial uses at both ends. Triple-deckers and 2.5 story gable end buildings are the common building type on Rossmore Street.

Impacts of Proposal (Design and Compatibility):

Special Permit with Site Plan Review applications must meet the design guidelines under SZO §5.2.4. The design guidelines for residential districts are as follows:

1. Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.

The proposed triple deckers are of a similar style, size, and proportion to those in the surrounding neighborhood.

2. Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).

Traditional materials will be used for the exterior of the building. It is conditioned that final materials and colors are reviewed and approved by Planning Staff prior to the issuance of a building permit. Planning Staff will ensure that high quality building materials will be used.

3. Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.

N/A

4. Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).

The proposed structures follow a similar form to those in the neighborhood but the architecture is distinguishable because it expresses a more modern style triple decker. The proposal also includes clerestory skylights; however, it is conditional that they move back toward the rear slightly so that the

front fascia/cornice is not broken. There is a condition that the proposed small windows on the front of each structure be enlarged to a more traditional size.

5. Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.

The proposed infill buildings will have the same perpendicular orientation to the street that every other building on Rossmore Street has.

6. Driveways should be kept to minimal width (perhaps a maximum of twelve feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.

The existing curb cut and driveway will be used for vehicles to be parked in the rear of the single family dwelling.

7. Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.

A condition of approval is that any transformers, heating and cooling systems, antennas, and the like, should be located in a manner so that are not visible from the street or should be screened.

8. Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.

N/A

5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The project meets accepted standards and criteria for the functional design of facilities, structures, and site construction.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The proposal is not expected to create adverse impacts on the public services and facilities serving the locus, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding*

area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”

Except for regular construction activity, the proposal is not expected to create an adverse impact on the environment.

8. Consistency with Purposes: *“Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections.”*

The Board finds that the proposal would be 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 provide for and maintain the uniquely integrated structure of uses in the City; 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 prevent the overcrowding of land; to avoid undue concentration of population; 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.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that “the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood.”*

The proposal will involve minimal grading and the existing land form will be maintained. The site is completely covered in either asphalt or building. The proposal will add landscaping across 40% of the site and permeable paving materials across 60% of the site. The only portion of the site that will not be permeable is the footprint of the buildings. Overall, the proposal will enhance the attractiveness of the neighborhood.

10. Relation of Buildings to Environment: *The Applicant must ensure that “buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings.”*

The proposal is designed at a scale that is compatible with the use and design of other buildings in the neighborhood.

11. Housing Impact: Will not create adverse impacts on the stock of existing affordable housing.

12. 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.



<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	0	3
<i>Affordable Units:</i>	0	0
<i>Parking Spaces:</i>	0	3

III. DECISION

Present and sitting were, Susan Fontano, Anne Brockelman, Elaine Severino, and Drew Kane (alt.). Upon making the above findings, Anne Brockelman made a motion to approve the request for Special Permit with Site Plan Review. 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 the construction of two new structures. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 17, 2019</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>June 27, 2019</td> <td>Plans submitted to OSPCD (T1, Z1-Z4, A0.1, A0-A9, and EC 1)</td> </tr> <tr> <td>August 7, 2019</td> <td>Landscape Plan (supersedes the landscaping in dimensional site plan (Z-2) and the architectural site plan A-0))</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 17, 2019	Initial application submitted to the City Clerk’s Office	June 27, 2019	Plans submitted to OSPCD (T1, Z1-Z4, A0.1, A0-A9, and EC 1)	August 7, 2019	Landscape Plan (supersedes the landscaping in dimensional site plan (Z-2) and the architectural site plan A-0))
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August 7, 2019	Landscape Plan (supersedes the landscaping in dimensional site plan (Z-2) and the architectural site plan A-0))											
Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng									
3	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.									
4	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City’s Stormwater Management Policy.	BP	Eng.									



5	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.	CO	Eng.	
6	Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any demolition permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division: a) a copy of the Response Action Outcome (RAO) Statement, signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.	Demolition Permit	Plng/ISD	
7	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
8	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
9	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
10	The Applicant shall conduct a survey of the houses of the abutting property owners prior to excavation of the site, and document their findings. These findings shall be submitted to the Planning Department as public record. The Applicant then shall survey any damage to the abutting property owner's houses after excavation and reimburse the property owners for any damages.	BP	ISD/Plng.	
Construction Impacts				
11	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.	



12	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	
13	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. Construction and contractor vehicles must park on-site and are prohibited from parking on any public way.	During Construction	T&P	
14	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	
Design				
15	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
17	The proposed small windows on the front of each structure must be enlarged to a more traditional size.	BP	Plng.	
Site				
18	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
19	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
Miscellaneous				
20	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	
21	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	



22	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
23	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.	
24	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				
25	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
26	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits &CO		
27	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	At time of release	OSE/FP/B OH	
28	The suspected underground fuel tanks on this site must be removed under the supervision of the Fire Prevention Bureau. Permits will be required for these removals.	CO	FP	
29	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
30	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Plng/OSE	
Final Sign-Off				
31	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.	
Miscellaneous				
32	The Applicant must coordinate with the City Arborist on protecting the street tree in front of the site during construction. If the tree is damaged as a result of construction activities on the site the Applicant (or subsequent owners) shall replace the tree with a species and size approved by the City Arborist.	BP/CO	Plng.	

Attest, by the Zoning Board of Appeals:

Susan Fontano, *Chair*
Anne Brockelman
Elaine Severino
Drew Kane (Alt.)

Attest, by Planner:

Alexander 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 _____

