



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

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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

Case #: ZBA 2018-62
Site: 10 Smith Ave
Date of Decision: June 20, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 3, 2018

ZBA DECISION

Applicant / Owner Name: RCG Smith Renewal, LLC
Applicant / Owner Address: c/o RCG LLC, 17 Ivaloo Street, Somerville, MA 02143
Alderman: J.T. Scott

Legal Notice: Applicant and Owner, RCG Smith Renewal LLC, seeks a Special Permit under §4.4.1 of the SZO to construct an exterior egress stair per order of the Fire Department. Egress stair is proposed within the right side yard setback. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC Zone. Ward 2.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	May 3, 2018
<u>Date(s) of Public Hearing:</u>	June 20, 2018
<u>Date of Decision:</u>	June 20, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-62 was opened before the Zoning Board of Appeals in the Visiting Nurses Association, 3rd floor Community Room, 259 Lowell Street, Somerville. 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:

The Applicant was cited by city officials for insufficient means of secondary egress from two of the units in this multi-unit residential building. The portion of this project that triggers the need for a special permit is the construction of an egress stairs from one of the upper-floor units down to grade. The egress stairs will terminate within the non-conforming right side yard setback. The egress stairs will terminate at the junction of the right façade and rear façade, 4.7 feet from the property line. A 10-foot side yard setback is required in this zone.

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:

The Board finds that, generally, the information provided by the Applicant conforms to the requirements of §4.4.1 and 5.1.4 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."*

Regarding §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."

Right side yard setback

The existing structure is a 2 ¾-story structure. The dimensional table (Section 8.5) of the SZO requires an 8-foot setback for 2 ½-story structures and a 10-foot setback for 3-story structures. At 2 ¾-stories, the more stringent setback of 10 feet applies.

The right elevation of this structure is already non-conforming, terminating at 4.7 feet from the property line at the right rear elevation. The left façade of the structure is 1.2 feet over the property line onto the abutting parcel. A stairwell leading straight down from the second story egress door into the back yard would create a situation necessitating the property owner to request a variance to violate the currently conforming rear yard setback. Hence, an egress stair terminating within the non-conforming right yard setback provides the best dimensional scenario for the property owner.

The proposed stairwell is for entry and egress only. There are no decks or porches proposed for this location.



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 RC zone as laid out in Section 6.1.3 of the SZO. In this section, the purpose of the RC zone is “[t]o establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

This pre-existing, multi-unit residential structure conforms with the uses and density allowed in the RC zone. However, while in compliance with the purposes of the district, without the installation of the egress stairwell, the property would not be in compliance with health and safety codes.

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 requested special permit will have minimal impact on abutting properties. The proposed stairwell is for entry and egress only. No decks or porches are proposed for this area which would have the potential of creating situations allowing for undo noise to ensue due to gatherings of people close to the property line.

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.

DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Danielle Evans, Josh Safdie, and Pooja Phaltankar. Upon making the above findings, Danielle Evans 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 for the construction of a rear egress stair within the right side yard setback.	BP/CO	ISD/Plng.					
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 3, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 3, 2018	Application submitted to City Clerk's office.
	Date (Stamp Date)				Submission			
May 3, 2018	Application submitted to City Clerk's office.							
<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>								
Design								
1	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/Plng					
Construction Impacts								
2	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					
3	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					
4	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 see.	During Construction	ISD					
Public Safety								
5	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP					
6	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.							
Final Sign-Off								
7	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
Elaine Severino
Josh Safdie
Pooja Phaltankar (*Alt.*)

Attest, by City Planner: _____
Sarah White

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 _____

