



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

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Case #: ZBA 2019-114
Site: 453 Somerville Avenue
Date of Decision: December 11, 2019
Decision: Petition Denied
Date Filed with City Clerk: December 20, 2019

ZBA DECISION

Applicant / Owner Name: Jack Saade
Applicant / Owner Address: P.O. Box 15303, Boston, MA 02215

Legal Notice: Applicant and Owner, Jack Saade, seeks a special permit under SZO §7.11.1.c and parking relief under Article 9 to construct a four story mixed use building with five residential units and ground floor retail space. A Variance under SZO §5.5 and §8.6.12 for relief from the required rear yard setback. BA and RB Zone. Ward 2.

Zoning District/Ward: BA and RB, Ward 2

Zoning Approval Sought: SP §7.11.1.c, Variance §5.5 and §8.6.12

Date of Application: October 3, 2019

Date(s) of Public Hearing: November 20, 2019, December 11, 2019

Date of Decision: December 11, 2019

Vote: 5-0

Appeal #ZBA 2019-114 was opened before the Zoning Board of Appeals at Somerville City Hall on November 20, 2019. 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 December 11, 2019, the Zoning Board of Appeals took a vote.



DESCRIPTION: The subject property is a 4,912 square foot lot with a former automotive repair building on it near the corner of Somerville Avenue and Granite Street. The 1,300 gross square foot, single story, flat roofed masonry building is situated at the extreme rear of the lot. Between the building and the Somerville Avenue streetscape is a parking area with nine off-street parking spaces. The lot is actually situated in two separate zoning districts with the building being located in an RB zoning district and the parking area located in a BA zoning district.

The proposal is to demolish the single story masonry building in the rear of the site and construct a four-story mixed use building with ground floor retail space and five residential units. The proposed building will be constructed within the BA portion of the subject property. The project will include parking spaces at grade underneath the rear portion of the building.

FINDINGS FOR SPECIAL PERMITS (§7.11.1.c)

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 does not meet the requirements of §5.1.2 of the SZO and does not allow for a comprehensive analysis of the project with respect to the required Special Permits. The Board stated that the drawings needed to be better including a plot plan with setbacks, a site plan showing abutters, and front elevation in context with the abutters and streetscape.

2. **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 Board found that the could not understand the context of the proposal in the surrounding neighborhood enough to view the project favorably.

III. FINDINGS FOR VARIANCE

A Variance (§5.5) is sought to violate SZO §8.6.12, which states "*where a lot in a business or industrial district abuts a lot or district line in a RA, RB, or RC district, no building in the business or industrial district shall be erected closer **to the residential line** than one-third (1/3) the height of the said building, but not less than fifteen (15) feet.*" The lot is split zoned with the front portion of the lot being in the BA zone and the rear portion being in the RB district. The proposed building will be completely within the BA portion of the lot and will be setback 0 feet from the residential **district line**. However, the proposed building will be located 25.57 feet from the rear property line, which is located in the RB zoning district.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO. The Board could not make the findings for the requested dimensional variance including findings for:

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*



2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, and Drew Kane. Josh Safdie was absent. Upon making the above findings, Danielle Evans made a motion to deny the request for the Special Permits. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **DENY** the request. Upon making the above findings for the variance, Danielle Evans made a motion to deny the request for the Variance. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals vote **5-0** to **DENY** the request.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Anne Brockelman
Elaine Severino
Josh Safdie
Drew Kane, *Alternate*

Attest, by the Administrative Assistant:

Karen Reynolds

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 _____

