



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-171
Site: 111 Summer Street
Date of Decision: May 1, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 15, 2019

ZBA DECISION

Site: 111 Summer Street
Owner Name: 111 Summer St., LLC
Owner Address: P.O. Box 610312, Newton Hills, MA 02461
Applicant Name: Elan Sassoon
Applicant Address: 295 Upland Avenue, Newton, MA 02461
Agent Name: Richard G. DiGirolamo
Agent Address: 424 Broadway, Somerville, MA 02145
Ward Councilor: Ben Ewen-Campen

Legal Notice: Applicant, Elan Sassoon, and Owner, 111 Summer St. LLC, seek special permits under §4.4.1 of the SZO for alterations to a non-conforming property including increasing the gross floor area (GFA) by more than 25%. Variance to reduce the rear yard setback from 38.4 feet to 10.25 feet*. Parking relief under Article 9 of the SZO. RB zone. Ward 3.

**Since the publication of this legal ad, the proposal has been revised such that the rear yard setback now complies with zoning requirements. Neither a variance nor special permit is needed for the rear yard setback.*

<u>Zoning District/Ward:</u>	RB zone. Ward 3.
<u>Zoning Approval Sought:</u>	SZO §4.4.1
<u>Date of Application:</u>	November 16, 2018
<u>Date(s) of Public Hearing:</u>	2/20, 3/6, 3/20, 4/3, 4/17, 5/1
<u>Date of Decision:</u>	May 1, 2019
<u>Vote:</u>	5-0

Case # ZBA 2018-171 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on May 1, 2019. Notice of the Public Hearing was given to persons affected and was



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published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. On May 1, 2019 the Zoning Board of Appeals took a vote.

I. DESCRIPTION:

The Applicant proposes retaining the four residential units in the building but increasing the amount of living space per unit. The existing rear additions will be removed from the house and a larger rear addition will be constructed. The rear addition will be in a contrasting, modern style to separate it visually and architecturally from the existing house.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.13):

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 conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits. The Board advises the Applicant that future submissions need to be better labelled.

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 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."*

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions. In the case of 111 Summer Street, it is a legally pre-existing, non-conforming four-family residential structure in a zone where a three-unit residential structure is the maximum allowed.

Increase GFA by more than 25%

Despite the removal of the existing rear additions on the structure, the proposed new rear addition will increase the gross floor area by more than 25%. The GFA numbers existing and proposed appear below:

Existing:

- 1012 GSF 3RD FLR
- 1175 GSF 2nd FLR
- 1615 GSF 1ST FLR
- 1378 BASEMENT GSF
- 5180 TOTAL GSF EXISTING



Proposed:

- 1440 GSF 3RD FLR
- 2073 GSF 2ND FLR
- 2157 GSF 1ST FLR
- 2153 BASEMENT GSF
- 7823 TOTAL GSF PROPOSED

The proposed rear addition is not insignificant in size and will be visible from all abutting properties and the street when viewed from the right and left elevations. As-proposed, the right, left, rear, and front setbacks will comply with zoning requirements for the RB zone. Despite the increase in building footprint, the property will remain under the maximum allotted ground coverage of 50% at 40.78%.

Parking

The Applicant requires parking relief for two (2.0) spaces. The on-site parking has been re-arranged such that they are all standard-sized spaces. No compact spaces are proposed for the site.

Regarding the number of spaces of relief needed, the assessment of such appears below:

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	1	1.5	Unit 1	3	2.0
Unit 2	1	1.5	Unit 2	3	2.0
Unit 3	studio	1.0	Unit 3	3	2.0
Unit 4	1	1.5	Unit 4	3	2.0
Total: 6.0 (5.5)			Total: 8.0		

*Parking formula: New Parking Req. – Old Parking Req. = new spaces required**

111 Summer Street: 8.0 – 6.0 = 2.0 spaces

Relief for 2.0 spaces is needed.

**When this result is < 1 or a negative number, no parking relief is required.*

Other determinations

Abutters can expect typical noises and odors associated with the construction phase of a project.

This project, as with all others, will need to be reviewed by the Engineering Division for their sign-off prior to the granting of a building permit. The Engineering Division will determine if any measures need to be taken by the Applicant to address any impacts on the municipal water and sewer system.

As the number of residential units on the site will remain the same, the Board does not anticipate an increase in the number of vehicles entering and leaving the site. Overall, the amount of available space on the parcel dedicated to parking will be greatly reduced from current conditions, though overall more space on the lot will be dedicated to the structure. There is no anticipated change in traffic pattern resulting from this project as the two-way flow of vehicular traffic on Summer Street will not be altered. As the number of units on the site is remaining the same, there is no anticipated increase in the queueing of vehicles in



the area. Should unit residents possess more than one vehicle per unit, area residents can expect an increase in on-street parking needs.

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 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 adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The purpose of the RB zone is “[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 existing structure is not consistent with the RB zoning district in that it is a four-unit residential structure in a zone where three units is the maximum allowed. However, as stated earlier in this report, the four-unit use is a pre-existing, non-conforming condition. As such, an Applicant has the right to alter such a structure under special permit. As the Applicant is maintaining the four-family use of the property, the Board finds that the proposal is no less consistent with the purposes of the RB zoning district than existing use conditions.

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."*

This area of Summer Street presents an eclectic mix of housing styles and sizes. Immediately to the left of 111 Summer Street is the former Somerville Home, a large brick complex that houses several low-income elderly residents for many decades. Immediately to the right of the project site is 109 Summer Street, a cross-gabled, single-family residential structure. Also extant in the immediate area are large Queen Anne houses, Shingle style, Mansards, gables, cross gables, older wood-frame apartment buildings and brick apartment buildings. Occupancies range from single-family to multi-unit. The majority of the properties in the immediate area have significant portions of their lots covered with bituminous material.

The Applicant’s proposal does not change the nature of the site or area from a use perspective. Overall, the proposal provides improvements in terms of visual appeal and permeability.

5. Housing Impact:

Will not add to the City’s stock of affordable housing.

6. SomerVision:



The proposal will result in the rehabilitation and upgrade of an existing property. The parcel will be improved such that all impervious, bituminous material will be removed from the site in order to improve the percolation of stormwater through the property. The site will be re-landscaped with an emphasis on native species. No additional units will be added to the City’s housing stock.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Drew Kane and Anne Brockelman. Upon making the above findings, Susan Fontano made a motion to approve the request for Special Permits. Josh Safdie 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 to increase the GFA by more than 25%, two spaces of parking relief. and providing compact rather than standard spaces.	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>November 16, 2018</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>February 28, 2019</td> <td>Revised plan set submitted to OSPCD</td> </tr> <tr> <td>March 15, 2019</td> <td>Color landscape renderings submitted to OSPCD</td> </tr> </tbody> </table>				Date	Submission	November 16, 2018	Initial application submitted to the City Clerk’s Office	February 28, 2019	Revised plan set submitted to OSPCD	March 15, 2019	Color landscape renderings submitted to OSPCD
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March 15, 2019	Color landscape renderings submitted to OSPCD											
<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												
2	All exterior materials, including, but not limited to windows, doors, siding, roofing, trim, and the like, shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	Planning Staff / ISD									
Engineering												
3	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 to April and there is a list of streets that have additional opening restrictions.	BP	Eng									
4	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.									



5	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This shall be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.	
6	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.	
7	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.	
8	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.	
9	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	Eng.	
Construction Impacts				
10	The Applicant shall, at their 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	
11	All construction materials and equipment shall be stored on-site. 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	
12	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	
13	The Applicant shall ensure that all food waste is removed from the project site on a daily basis.	During construction	ISD	



14	Construction and construction-related work shall occur between 7:30am and 5:00pm Monday through Friday only. No construction or construction-related work shall occur on the weekends or holidays. This includes deliveries.	During construction	ISD	
15	Port-o-Potties used during the construction phase shall be located on the left portion of the project site closer to the 117 Summer Street property line.	During construction	ISD	
16	There shall be no idling of construction or construction-related vehicles on the property or street prior or post working hours. Out of respect for the neighbors, construction personnel shall not play loud music or engage in loud conversations prior, during, or post the allowed construction hours.	During construction	ISD	
17	Rodent baiting/control shall be undertaken as-needed.	During construction	ISD	
Site				
18	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	CO & Perpetual	Plng. / ISD	
19	All mechanical equipment shall be screened from the view of the street and from abutting properties.	CO & Perpetual	Plng. / ISD	
20	All venting shall be painted or wrapped to match the color of the portion of the house from which it protrudes.	CO & Perpetual	Plng. / ISD	
21	The site plan shall be updated to indicate the location of garbage/recycling locations. Garbage/recycling shall be located along the left elevation of the property	BP/CO & Perpetual	ISD/Plng	
22	All garbage and recycling shall be screened from the view of the street and abutting properties.	CO & Perpetual	Plng. / ISD	
23	All materials to be used for landscaping, driveways, sidewalks, parking, fencing and similar shall be submitted to Planning Staff for their review and approval prior to ordering.	Prior to ordering	Plng. / ISD	
Public Safety				
24	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
25	As per City regulations, there shall be no grills or similar cooking/heating equipment allowed on any decks or porches at any time.	Perpetual	FP/ISD	
26	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
27	The building shall be sprinkled.	CP	FP/ISD	
Miscellaneous				
28	Conduits, venting/exhaust pipes shall NOT be placed on the front façade of the building. All such items shall be painted or wrapped to match the color of the portion of the building from which they protrude.	CO	ISD/Plng	

29	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 hard, 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 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/Plng	
30	Electrical conduits on the exterior of buildings shall be painted to match the color of the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	ISD/Plng	
31	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.	Perpetual	ISD	
32	Best efforts will be made to locate AC condensers along the left elevation of the parcel, closer to the former Somerville Home property. The site plan shall be updated to indicate the location of the AC condensers.	BP/CO	ISD/Plng	
33	Any damage done to abutting properties as a result of the construction process shall be resolved between the disputing parties as a private matter.	During construction /perpetual	Private parties	
Final Sign-Off				
34	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*
Josh Safdie
Anne Brockelman
Drew Kane (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 _____

