



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

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Case #: ZBA 2019-42
Site: 29 Ward Street
Date of Decision: August 7, 2019
Decision: *Approved with Conditions*
Date Filed with City Clerk: August 12, 2019

ZBA DECISION

Site: 29 Ward Street

Applicant / Owner Name: Scott Flanagan
Applicant / Owner Address: 33 Ward Street, Somerville, MA
City Councilor: J.T. Scott

Legal Notice: Applicant / Owner, Scott Flanagan, seeks a special permit under SZO §4.4.1 to alter a nonconforming structure by constructing a third story and adding a third dwelling unit. A special permit is also being sought under SZO §9.13 for parking relief. BA Zone. Ward 2.

**It was determined by Planning Staff that a special permit under SZO §4.4.1 is not required.*

<u>Zoning District/Ward:</u>	BA Zone. Ward 2
<u>Zoning Approval Sought:</u>	SZO §9.13
<u>Date of Application:</u>	April 8, 2019
<u>Date(s) of Public Hearing:</u>	6/5/19, 6/19/19, 7/17/19, and 8/7/19
<u>Date of Decision:</u>	August 7, 2019
<u>Vote:</u>	4-0

Case number ZBA 2019-42 was opened before the Zoning Board of Appeals in the 3rd floor Community Room at the Visiting Nurse Association on 259 Lowell Street. 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 7, 2019, the Zoning Board of Appeals took a vote.



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I.PROJECT DESCRIPTION

The proposal is to convert the existing gable half story into a flat roofed third story and add convert the two-family dwelling into a three-family dwelling. The proposed modifications dimensionally comply with the requirements for the BA zoning district but require parking relief.

II. FINDINGS FOR SPECIAL PERMIT (SZO §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.

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."*

Article 4: Nonconforming Uses and Structures

The structure is currently conforming with respect to the dimensional requirements of Article 8. The proposed work will not create any new zoning violations. **Therefore a special permit under SZO 4.4.1 is not required.**

Article 9: Off-street Parking and Loading

	<i>Existing</i>		<i>Proposed</i>	
Unit #1	1 BR	1.5 spaces	1 BR	1.5 spaces
Unit #2	1 BR	1.5 spaces	1 BR	1.5 spaces
Unit #3	--	--	1 BR	1.5 spaces
Total	3 spaces		5 spaces (round up from 4.5 spaces)	

The site currently provides only two parking spaces for the two-family dwelling. Therefore, the site is nonconforming with respect to the number of required off-street parking spaces as three are currently required. For sites with a nonconforming number of parking spaces, SZO 9.4.2 only requires a proposal to provide the number of required spaces for what is being added to the site. The proposal is to add a one-bedroom dwelling unit, which will increase the number of required parking spaces to five. The proposal is to provide one additional space on the site rather than the two additional spaces required. 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. Relief is being requested from providing the additional one required parking space.

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. 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 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 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.

The proposal is consistent with the purpose of the BA district, which is, "to establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic."

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."*

Surrounding Neighborhood: The abutting properties are comprised of commercial uses. There is a metal, 15 foot structure to the rear and a 1 ½ story factory building to the left side of the site. There is a small Residence B zoning district with residential houses across the street some of which are three stories.

Impacts of Proposal (Design and Compatibility): The proposed third story is not anticipated to be impactful to the industrial neighborhood or the nearby residences that are also three stories.

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

6. 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>	2	3

III. DECISION:

Present and sitting were, Susan Fontano, Danielle Evans, Anne Brockelman, and Drew Kane (alt.). Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Drew Kane 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 a third story and added a dwelling unit. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 8, 2019</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 20, 2019</td> <td>Modified plans submitted to OSPCD (1-6)</td> </tr> <tr> <td>June 25, 2019</td> <td>Existing and proposed site plans</td> </tr> <tr> <td>August 3, 2019</td> <td>Plot Plan</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 8, 2019	Initial application submitted to the City Clerk's Office	February 20, 2019	Modified plans submitted to OSPCD (1-6)	June 25, 2019	Existing and proposed site plans	August 3, 2019	Plot Plan
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August 3, 2019	Plot Plan													
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.														
Construction Impacts														
2	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.											
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											
4	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														
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.											
Site														
6	The proposed parking space must be of a permeable material.	Perpetual	Plng.											
7	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD											
Miscellaneous														
8	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.											



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	
Public Safety				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	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.	
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:

Susan Fontano, *Chair*
Danielle Evans, *Clerk*
Anne Brockelman
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 _____

