



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2017-24**  
**Site: 16-18 Washington Terrace**  
**Date of Decision: April 19, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 1, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Theodore J. Poppitz & Victoria K. Choitz
<b>Applicant Address:</b>	18 Washington Street, Somerville, MA 02143
<b>Property Owner Name:</b>	Theodore J. Poppitz & Victoria K. Choitz
<b>Property Owner Address:</b>	18 Washington Street, Somerville, MA 02143
<b>Agent Name:</b>	Adam Dash, Esq.
<b>Agent Address:</b>	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicants and Owners, Theodore J. Poppitz and Victoria K. Choitz, seek a Special Permit under SZO §4.4.1 to make alterations to the nonconforming structure, a Special Permit under §7.3 and §7.11.2.b for a special residential conversion from a two-family dwelling into a three-family dwelling, and a Special Permit under §9.13 for parking relief.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1, §7.3, §7.11.2.b & §9.13
<u>Date of Application:</u>	March 1, 2017
<u>Date(s) of Public Hearing:</u>	4/5/17 & 4/19/17
<u>Date of Decision:</u>	April 19, 2017
<u>Vote:</u>	5-0

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Appeal #ZBA 2017-24 was opened before the Zoning Board of Appeals at Somerville City Hall on April 5, 2017. 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.



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**DESCRIPTION:**

The proposal is to add dormers on both sides of the attic, expand the existing front dormer, and alter the rear roofline to add living space in the attic. The proposal is to also convert the dwelling from a two-family into a three-family dwelling by locating the third unit in the newly finished attic space.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §7.11.2.b, §7.3, and §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.*

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.” The structure is currently nonconforming with respect to the following dimensional requirements: lot area, lot area per dwelling unit, landscaped area, pervious area, floor area ratio (FAR), front yard setback, right side yard setback, street frontage, and the number of off-street parking spaces. The proposal will impact the following nonconforming dimensions: lot area per dwelling unit, FAR, and the front and right side yard setbacks.

<b>Dimension</b>	<b>Current</b>	<b>Proposed</b>	<b>Required</b>
Lot area per dwelling unit	1,642 sf per du	1,095 sf per du	2,250 sf per du
Floor area ratio	0.84	0.94	0.75
Front yard setback	5 feet	5 feet	10 feet <sup>1</sup>
Right side yard setback	6' 1"	6' 1"	7' 4" <sup>2</sup>

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. Washington Terrace is comprised of mostly hipped style roofs and the adjacent Columbus Avenue is comprised of mostly gable style roofs. These proposed alterations will maintain the hipped style in the front and a gable style in the rear. The Applicant is also proposing two shed dormers on either side of the ridge. The slope of the Washington Terrace is particularly steep, which minimizes the visibility of the proposed alterations from the street.

Washington Terrace is comprised of very small parcels in the most restrictive zoning district in the city that would normally lend itself to only one dwelling unit if it were new construction based on the requirement of 2,250 square feet of lot area per dwelling unit. Therefore, this house, already exceeding lot area per unit, is requesting a special

<sup>1</sup> Unenclosed porches may project into a required front yard provided a minimum ten foot distance is maintained from the front lot line.

<sup>2</sup> For each foot by which a lot is less than fifty (50) feet wide on the effective date of this Ordinance, one (1) inch may be deducted from the required width of each side yard. The lot is 42 feet wide; therefore, each required side yard may be reduced to 7'-4".



permit to extend this nonconforming dimension. In most cases, the Board has not supported Special Permit or Variance requests that exceed the required lot area per dwelling unit dimension; however, Staff finds this to be a unique circumstance. The uniqueness is that this particular proposal is based upon the combination of the application for relief from the lot area per unit requirement along with the use of the special residential conversion provisions of the ordinance. Because of the strict limitations of the 'special residential conversion' regulation, the project will not increase the height of the structure, will not add gross floor area and therefore will only result in one additional bedroom.

The project has also received five letters of support from abutters with nobody coming forward at this time to oppose of the project.

The Board finds that granting approval of the requested Special Permit will not have a detrimental impact on the structure or the surrounding neighborhood and will fit in with the character of the neighborhood.

*Article 7: Permitted Uses.*

Section 7.3 states "In Residence A districts, the maximum number of dwelling units per lot shall be two (2) units, except where conversion for up to three (3) dwelling units is authorized by special permit under Section 7.11." Section 7.11, the table of permitted uses, indicates that an existing dwelling converted for up to three dwelling units shall require a special permit in the RA zoning district. Section 2.2.138, the definition for a residential conversion, states that a, "Conversion within an existing dwelling which increases the number of dwelling units but does not increase the gross floor area of the dwelling. Residential conversions shall not change the footprint of the existing dwelling and shall not extend the dwelling upward or outward." The proposal will not increase the gross floor area of the dwelling, and will not change the footprint nor will it extend the dwelling upward or outward beyond its current footprint.

*Article 9: Off-Street Parking and Loading.*

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 less than six. The locus is currently nonconforming with respect to the number of required off-street parking spaces as four are required for the existing two-family dwelling and only one is provided.

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 prevent the overcrowding of land; to avoid undue concentration of population; 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 district, which is, "to establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." Staff finds that the proposed use as a three-family is compatible with and convenient to the residents of the district.

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 locus and mostly every property on the street includes two rights of way with abutting properties for the purposes of shared tandem driveways and uses the driveway to the right of each respective house for their off-street parking need. For zoning purposes they do not own enough width of the driveway to have a legal parking



spot; however, they do use the tandem driveway to the right of their house that can accommodate three vehicles in tandem. Staff 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.

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:* Washington Terrace is a private way located to the northeast of the heart of Union Square. Most of the houses on the street are two-family dwellings with hipped roofs. The street slopes upward from Washington Street.

*Impacts of Proposal (Design and Compatibility):* In considering a special permit under §4.4 of the SZO, the Board finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. Washington Terrace is comprised of mostly hipped style roofs and this proposal will maintain that style in the front and the gable style in the rear will match that of houses on the adjacent Columbus Avenue. Additionally, the steep slope of Washington Terrace minimizes the views that pedestrians would have of these alterations.

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

The proposal will not create adverse impacts on the stock of existing affordable housing.

7. 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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Pooja Phaltankar with Danielle Evans voting in opposition and Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-1** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the renovation/construction of dormers, renovation of the rear of the roof, and the conversion into a three-unit dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Png.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 1, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 28, 2017</td> <td>Existing conditions plans submitted to OSPCD (E1.0, E1.1, and E2.0)</td> </tr> <tr> <td>March 17, 2017</td> <td>Proposed plans submitted to OSPCD (T1.0, A1.0, A1.1, A2.0, and A2.1)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 1, 2017	Initial application submitted to the City Clerk's Office	February 28, 2017	Existing conditions plans submitted to OSPCD (E1.0, E1.1, and E2.0)	March 17, 2017	Proposed plans submitted to OSPCD (T1.0, A1.0, A1.1, A2.0, and A2.1)
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Any changes to the elevations/use that are not <i>de minimis</i> must receive SPGA approval.												
<b>Construction Impacts</b>												
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	Png.									
3	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									
4	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									
<b>Design</b>												
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Png.									
<b>Site</b>												
6	The slope of the proposed dormer shall be increased by 0.5 to become 1:12.	BP	Png.									



7	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
8	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	
<b>Public Safety</b>				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	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.	
<b>Final Sign-Off</b>				
11	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*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Anne Brockelman (Alt.)

Attest, by the Administrative Assistant:

\_\_\_\_\_   
 Dawn M. Pereira

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 \_\_\_\_\_

