



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-82
Site: 1 Williams Court
Date of Decision: November 29, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 13, 2017

ZBA DECISION

Applicant Name:	Frank Marinello
Applicant Address:	27 Porter Street, Somerville, MA 02143
Property Owner Name:	Frank Marinello
Property Owner Address:	27 Porter Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner, Frank Marinello, seeks Special Permits under §4.4.1 of the SZO for the upward extension of the non-conforming rear yard setback and parking relief under §9.13 of the SZO.*

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1, §9.13
<u>Date of Application:</u>	August 3, 2017
<u>Date(s) of Public Hearing:</u>	November 8, 2017, November 29, 2017
<u>Date of Decision:</u>	November 29, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2017-82 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, second floor of Somerville City Hall, 93 Highland Avenue on November 8, 2017. After taking testimony, the hearing was continued to November 29, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 2,614 square foot parcel in the RB zone containing a 1,636 square foot two-family house. The property sits at the corner of Williams Court and Porter Street.

2. Proposal: The Applicant proposes keeping the two-family use, but wants to expand the first floor unit by one bedroom and expand the second floor unit by one bedroom and one bathroom one bathroom. To accomplish the goals of this proposal, ~~three~~ two gabled dormers are proposed for the right elevation of the property.

Lastly, the Applicant proposes new egress stairs starting at the second floor along the right elevation of the house.

Since the November 8, 2017 ZBA hearing, the Applicant’s team has worked to address concerns raised by both abutters and the Board. To that end, the following adjustments have been made to the plan:

- Size of top story rear addition reduced in length, width and height, in order to reduce massing and preserve abutter views;
- Rear setback increased from 1 foot (existing) to 2 feet (proposed);
- Shadow study incorporated.

The above changes are discussed in-depth below.

Site:

At 39 feet, wide and 65 feet ~~depth~~ deep, the parcel is both narrow and short. The house itself rests only about one foot from the property line on the left elevation. The rear of the structure also rests only about one foot from the property line.

Initial plans submitted by the Applicant proposed extending the entirety of the second and third floor building bulk back to all but one foot from the rear property line.

In response to abutter concerns, this latest plan set significantly reduces the second floor addition. The Applicant has significantly pulled back the second story addition from the right and rear elevations. While the second story deck is proposed to be larger than in the initial plan set, the overall reduction in solid building mass addresses abutter concerns regarding obscured views that might be caused by the new addition.

Also in response to abutter concerns, the Applicant is pulling the entirety of the first floor away from the rear property line, increasing the rear setback from one foot to two feet. (The area of concern is the location of the existing carport. This carport will be removed and the area enclosed to provide a master bedroom suite on the first floor.)

Lastly, also in response to abutter concerns, the Applicant has included a shadow study with his



updated plan set. This shadow study illustrates that the updated proposal will not negatively impact light on abutting properties. Sheet A-7 in particular illustrates where light paths will fall over 1 Williams Court and onto the 1 ½-story tall hedges of an abutting property.

Parking:

Two parking spaces are currently available on the property. In the updated plan set submitted for the November 29, 2017, ZBA hearing for this case, the updated plans show two parking spaces along the private way of Williams Court. While depicting the fact that, in general, there can be resident parking along Williams Court, because these two spaces do not appear to be deeded to 1 Williams Court itself, these two parking spaces on Williams Court cannot be counted toward the total number of parking spaces that the Applicant is able to provide under the proposed conditions. Therefore, as stated in the original staff report, this situation of providing two on-site parking spaces will not change going forward. The parking spaces currently found on the property are considered existing, non-conforming spaces.

The overall bedroom count on the property is increasing by three: one additional bedroom for Unit 1 and two additional bedrooms for Unit 2.

The total bedroom count per unit and the associated parking requirements for each are as follows:

Unit #	Existing BDR	Req. Parking	Proposed BDR	Req. Parking
1	2	1.5	3	2.0
2	2	1.5	3 4	2.0

New parking requirement – Old parking requirement = # of new spaces required*

4.0 spaces – 3.0 spaces = 1 parking space of relief

**when the result of this calculation equates to less than one or a negative number, additional spaces are not required to be provided.*

FAR

The FAR is already non-conforming at 1.3 in a zone where 1.0 is the maximum allowed. The Applicant proposes increasing the FAR by less than 25% ~~to 1.6~~.

Design:

The Applicant proposes three individual, gabled dormers along the right elevation roof line. These dormers, in total, *appear to* measure 50% or less of the roof plane to which they are attached. It is incumbent upon the Applicant to prove this assumption, however. Further, the Board strongly advises the Applicant to start the dormer further down from the peak of the roof by one or two feet as the Board finds that this will read better from the public way.

On the left elevation, the Applicant proposes one small shed dormer which, at 9.6 feet is less than 50% of the roof plane to which it would be attached. Because of its proximity to the property line, this dormer triggers the need for a Special Permit.

The proximity of the second floor deck to the rear line along with the small rear addition at the rear of the second floor, and the upward extension of the left rear elevation all trigger the need for Special Permits.



3. Green Building Practices: The Application states that the project will not exceed the stretch code.

II. 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 the relevant sections of the SZO. This section of the report goes through those sections in detail.

1. Information Supplied:

Staff finds that the information provided by the Applicants conforms to the requirements of §7.3, 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.”*

Under SZO §4.4.1

Section 4.4.1 states that “[l]awfully existing non-conforming 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 non-conforming 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.”

Rear and left yard setbacks

The Board finds that, though very close to the left lot line, the upward extension of the non-conforming left elevation will not be substantially more detrimental to the site or surrounding neighborhood than the current conditions on the property. The Board still finds the same for the proposed enclosure of the carport area (including bringing this area an additional foot back from the property line) and the second floor rear addition with larger roof deck. Though the massing is further increasing at the rear of the property due to enclosing the car port, Staff finds that this portion of the structure already reads as part of the building bulk and that enclosing this area fully will not be more detrimental to the site or neighborhood. The



existing carport and associated massing can be seen in the image on the previous page.

Overall, the Board finds that extending the existing non-conformities will not be more detrimental to the site or surrounding neighborhood and that the proposed alterations are generally in keeping with the character of the surrounding neighborhood. The proposed alterations, despite the increase in bedroom count, will not have a substantially more detrimental effect on traffic flow, volumes, or congestion. Parking is also available not only on Porter Street, but on Williams Court itself which is a private way. The Board finds that the proposed alterations should provide an improvement in the visual effects of the property. The Board finds that the proposed alterations should have no effect on noise or odor generation or shading of properties. As with all properties, inhabitants of this property are subject to the same noise and light ordinances as all other properties in the City. Lastly, The Board finds that the addition of ~~one~~ two more bathroom and ~~two~~ three bedrooms should not amount to much of an impact on the municipal water supply or sewer capacity. As with all projects, this proposal will need the sign-off of Engineering and Water & Sewer.

Under SZO §9.13.a

Section 9.13.1 states, in part, that: "the SPGA may grant a special permit modifying certain parking/loading standards of this [Article 9](#), but only in those specific cases itemized as "a" through "g" below. 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, with finding "b" of said Section 5.1.4 being based upon an analysis that the requested modification of parking/loading standards of this [Article 9](#) complies with the specific, stated standards as may be set forth for the specific relief requested (any of cases "a" through "g" below), and also upon a determination that the relief does not cause detriment to the surrounding neighborhood through any of the following applicable criteria:

- 1) increase in traffic volumes;*
- 2) increased traffic congestion or queuing of vehicles;*
- 3) change in the type(s) of traffic;*
- 4) change in traffic patterns and access to the site;*
- 5) reduction in on-street parking;*
- 6) unsafe conflict of motor vehicle and pedestrian traffic.*

- a.)** *Modification of Parking Requirement for Nonconforming Structures and Lots. Where the total number of parking spaces required by this Ordinance is six (6) or fewer, the requirements for lots or sites that are nonconforming with respect to parking as specified in [Section 9.4](#) may be modified.*

The Board finds that providing the Applicant with the one space of parking relief that they need will not negatively impact items 1-6 immediately above. As noted earlier, there are already two parking spaces on the site (one for each unit) and additional parking may be found on the private way, Williams Court.

- 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, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.

4. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

The Board finds that the proposed project, as-conditioned, is consistent with the intent of the RB zoning district which is “...to 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.”

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

The proposal will not add any units to the existing stock of the City’s affordable housing units.

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, 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.*

The Board finds that the proposed project will maintain the same number of rental units on this parcel. In addition, Staff finds that the proposal presents an opportunity for family rental housing, given the accommodations proposed.

DECISION:

Special Permit under §4.4.1 and §9.13

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman, and Josh Safdie, with Pooja Phaltankar not voting as an alternate member. 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is for left elevation dormer, rear addition, rear deck, left and rear upward extension of non-conformities, and parking relief.	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>August 3, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>October 19, 2017</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>November 9, 2017</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 3, 2017	Initial application submitted to the City Clerk's Office	October 19, 2017	Updated plans submitted to OSPCD	November 9, 2017	Updated plans submitted to OSPCD
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<p><u>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.</u></p>												
Pre-Construction & 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	The Applicant shall post the name and phone number of the general contractor, owner, and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	Plng./ISD									
4	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng./ISD	Deed submitted & application form signed								
5	All construction materials and equipment shall 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									
6	<u>Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays.</u>	During Construction	ISD									



7	The Applicant shall ensure that all food waste associated with construction personnel be removed from the premises at the end of each work day.	During Construction	ISD	
8	The Applicant shall, throughout the construction process, ensure that the project site remains as follows: <ul style="list-style-type: none"> - ALL construction-related debris shall be placed in dumpsters or similar at the end of EACH day; - Items removed from the existing building as part of the project process shall be disposed of in dumpsters at the end of each day and/or placed in storage off the premises. These items may include, but are not limited to: mechanicals, pipes, vents, household appliances, toilets, bathtubs, refrigerators, etc. - Under no circumstances shall debris from demolition, construction waste, or the like fall upon, be placed upon or otherwise encroach on abutting properties or the public way. - ALL hazardous material including, but not limited to, asbestos (siding, pipe wrap, insulation, etc.), oil tanks, etc., shall be removed by a licensed, insured, and qualified specialist. 	Pre-Construction & during construction process	ISD/PInG	
9	During the construction process, all snow shall be removed from the driveways, parking spaces, walkways and abutting sidewalks. All such snow shall be removed from the site and not piled on the parcel in any manner.	During Construction	ISD	
10	Deliveries to the construction site shall only occur during 9am and 3pm Monday through Friday. No deliveries to the construction site shall occur on weekends or holidays.	During construction	Traffic & Parking/ISD	
11	Construction and construction-related personnel shall NOT arrive at the job site before 7:30 am. Construction-related vehicles shall not be left to idle on or near the property and site personnel shall be mindful of surrounding property owners by not playing music, engaging in loud conversations, and the like before, during, or after the work day.	During construction	ISD	
12	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	ISD/PInG/Engineering	



13	The Applicant shall 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 1 st to April 1 st and there is a list of streets that have additional opening restrictions.	BP	ISD/Engineering	
Design				
14	The Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. Windows shall have muntins (grids) applied to the glass. No between-the-glass grids shall be allowed. Windows shall not be tinted nor shall they convey any reflective or mirrored quality.	BP	Plng/Zoning Review Planner	
Site				
15	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	
16	Garbage and recycling containers shall be stored out-of-view of the public way. All such containers and container areas shall be screened with either evergreen plantings (no arborvitae) or wood screening. Locations for containers shall be indicated on the final plan set submitted to ISD for building permits. Screening material shall be reviewed and approved by Planning Staff prior to installation.	Screening material: BP Installation of container site and screening: CO	Plng/ISD	
17	Any materials used for any hardscaping (walkways, parking areas, landscaping walls, and similar) shall first be presented to Planning Staff for their review and approval prior to installation.	CO	Plng/ISD	
Miscellaneous				
18	The existing windows on the left elevation of the original structure may be replaced, but shall remain the same size as current. Any change in dimensions will result in the windows needing to be inoperable, fire-rated or glass block windows in keeping with fire prevention codes.			
19	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	Plng/ISD	



20	Exhaust/venting pipes protruding from the roof shall be wrapped or painted to match the color of the shingling.	CO	Plng/ISD	
21	There shall be no vents or exterior pipes located on the front façade of the building. All vents and exterior pipes shall be painted or wrapped to match the color of the structure from which they protrude.	CO	Plng/ISD	
Public Safety				
22	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
23	Any new or enlarged window openings that fall 3 feet or less from the property line shall be fire-rated, inoperable windows that conform to the specifications set out in the building code and interpreted by ISD	CO	ISD	
24	All lighting shall be downcast and shall not spill onto the public way or onto neighboring properties in any fashion.	CO	ISD	
25	Per City of Somerville fire prevention regulations, grills, barbeques, chimineas or similar shall not be used or stored on porches or decks. The Applicant shall write such specifications into any condo docs and/or rental agreements. The Applicant shall provide the City proof of such inclusion prior to the receipt of a Certificate of Occupancy	CO	Plng/ISD	
Final Sign-Off				
26	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*
 Elaine Severino
 Josh Safdie
 Anne Brockelman
 Pooja Phaltankar (Alt.)

Attest, by the case City Planner: _____

Sarah M. 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



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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 _____

