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

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ELAINE SEVERINO  
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ANNE BROCKELMAN, (ALT.)  
POOJA PHALTANKAR, (ALT.)

Case #: ZBA 2018-46  
Site: 56 Franklin Street  
Date of Decision: June 6, 2018  
Decision: Petition Approved with Conditions  
Date Filed with City Clerk: June 13, 2018

*bk 109892 DE 559*

**ZBA DECISION**

**Applicant / Owner Name:** Victor Moreira  
**Applicant / Owner Address:** 11 Longmeadow Road, Windham, NH 03087  
**Alderman:** Matthew McLaughlin

Legal Notice: Applicant and Owner, Victor Moreira, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming structure and under Article 9 of the SZO for parking relief. The Applicant proposes increasing the number of units on the site from one to three. RB zone. Ward 1.

Zoning District/Ward: RB Zone. Ward 1  
Zoning Approval Sought: §4.4.1 and Article 9  
Date of Application: March 1, 2018  
Date(s) of Public Hearing: June 6, 2018  
Date of Decision: June 6, 2018  
Vote: 5-0

Appeal #ZBA 2018-46 was opened before the Zoning Board of Appeals in the Visiting Nurse Association, 3rd floor Community Room, 259 Lowell Street, Somerville, MA. 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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**I. DESCRIPTION:**

The Applicant proposes adding two more dwelling units to the property. To accomplish this, a large addition at the rear of the house is proposed. The proposed addition is visually divided into three distinct sections. The first portion of the addition is two stories with a flat roof. The second portion of the addition is 2 1/2-stories of living space topped with a gabled roof. There are four garage bays proposed under the addition. A deck is proposed along the right elevation of the first portion of the addition and decks are proposed along the rear elevation overlooking the back yard. The concrete wall along the frontage will be removed. All bituminous material will be removed from the site and pervious pavers added in its stead.

The manner in which the additions are proposed is intended to visually divide the structure into three distinct units. This visual distinction will be noticed most from the right elevation. From the front elevation, each portion of the addition will step out from the main structure.

A driveway of pervious pavers is proposed. The grade of the driveway will be changed to slope downward toward the back of the lot. A retaining wall is proposed at the end of the driveway and along the right of the driveway.

The following components of the project require special permits:

**Gross Floor Area (GFA)**

When an applicant requests to increase the Gross Floor Area (GFA) by more than 25%, a Special Permit is required. The Applicant proposes increasing the GFA of the property by 62% the GFA will increase from 1,920 square feet to 3,094 square feet.

**Left side yard setback**

The left elevation of the existing single family structure rests 1.7 feet from the property line. In the RB zone, a minimum side yard setback is 8 feet. The setback line of the existing single-family footprint will not change.

The first portion of the rear addition will be further stepped back from the property line, but will still be non-conforming at 6.2 feet at its shortest point and 7.8 feet at its deepest. This requires a special permit.<sup>1</sup>

**Parking**

As proposed, the project is in need of two parking spaces of relief.

**II. FINDINGS FOR SPECIAL PERMITS (SZO §4.4.1 and Article 9)**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.*

**1. Information Supplied:**

The Board finds that, generally, the information provided by the Applicant with regard to the interior arrangement of the structure and exterior elevations conforms to the requirements of

<sup>1</sup> As a point-of-note, the second portion of the rear addition will be set back more than 8 feet from the property line and will comply with side yard setbacks for the RB zone.



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§4.4.1 of the SZO.

However, the Board believes that the calculation of the final building height is incorrect and has requested of the Applicant team that they re-calculate the building height to ensure that the grade change created by the lowering of the driveway is taken into account. The final building height must also be calculated based on the average finished grade of the property. The Board anticipates that the Applicant team will have this information prior to the ZBA hearing. While the Board also anticipates that the building height will not be in excess of the 40-foot maximum allowed in the RB zone, the Applicant team must prove this in its submission to the Board's satisfaction.

- 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."*

**Regarding §4.4.1 and §9.13 of the SZO**

**Section 4.4.1 of the SZO**

*Section 4.4.1 states that "[l]awfully existing nonconforming 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 nonconforming 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."*

**Gross Floor Area (GFA)**

A Special Permit is needed when an Applicant proposes increasing the Gross Floor Area (GFA) by more than 25%. The Applicant proposes an increase in GFA of 62%.

**Left side yard setback**

The left side yard setback is 1.7 feet for the existing single-family structure. This setback will be maintained for this portion of the building. The first section of the addition will be positioned 6.2 feet and 7.8 feet from the left side property line. In the RB zone, a minimum side yard setback of 8 feet is required. The Board finds that, though still non-conforming, this portion of the new addition improves the nonconformity of the left side yard setback by several feet in a couple of locations. The Board finds that stepping in this portion of the addition from both the left lot line and from the left façade place of the existing single-family structure, helps to reduce the visual massing of this portion of the building.

**Additional determinations**

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other.



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The Board finds that the changes proposed to the existing single family house currently extant on the property will significantly improve the visual appearance of this structure by providing it with a symmetrical, unified façade and upgrading the materials used to skin the building.

Lastly, impacts on municipal water supply and sewer capacity will be examined by the Engineering Department prior to the issuance of any building permit for this project. The Applicant is required to submit full engineering plans to the Engineering Department for their assessment, feedback and approval or denial.

**Section 9.13 of the SZO (Article 9)**

Under existing conditions, the property can provide two (2) legal spaces. The Applicant proposes five (5) on-site parking spaces. Four of these spaces are proposed in garages under the new addition. A fifth space is proposed along the right side of the driveway (see plan Sheet L1.2).

Planning Staff opposed the inclusion of this fifth parking space along the right side of the driveway. Staff recommended that the ZBA allow for the four under-building parking spaces, but eliminate the additional surface parking space on the driveway. There is already a lot of hardscape to be installed on this parcel to create both the retaining walls and the driveway.

The Board acknowledges that the bituminous material is being removed and that pervious pavers are being installed. However, given the amount of green space that is being removed from the site to accommodate such a large addition, the Board finds that the area designated for this fifth parking space – or an area near it – can instead be converted into quality landscaped area. By doing so, the Applicant will be able to soften the appearance of this area of the parcel to make it more visually appealing from a public way and to increase the landscape percentages on the parcel. The inclusion of additional landscaping at or near this area also helps to create a better transition from the public way (sidewalk and street) to the private property.

As it is, with four parking spaces proposed, the Applicant is including one amenity parking space for the site. Three parking spaces (or, one per unit), is typically in keeping with the ZBA’s approach to parking.

Existing Area	Existing Units	Existing Req.	Proposed Area	Proposed Units	Proposed Req.
Unit 1	3	2.0	Unit 1	3	2.0
Unit 2	n/a	n/a	Unit 2	2	1.5
Unit 3	n/a	n/a	Unit 3	3	2.0
<b>Total: 2.0</b>			<b>Total: 5.5</b>		

Formula:

*new parking requirement – old parking requirement = # of spaces of relief needed\**

5.5 spaces – 2 spaces = 3.5 spaces

Under existing conditions, this property is able to provide two (2) legal parking spaces. Under the proposed conditions, the Applicant is required to provide 3.5 (rounded to 4) additional parking spaces on the site. This means that a total of 6 spaces should be provided on-site. The Applicant proposes providing five (5) spaces \*\*. This leaves a differential of 1 parking space for which the Applicant has provided



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Planning Staff is supportive of granting relief for this one (1) space and encouraged the ZBA to grant relief for two (2) spaces, the reasons for which are described earlier in this report.

*\*When this result is a negative number or >1, no parking relief is needed. The result of this formula is then compared against the number of spaces that the applicant proposes to provide on the site. If this number is greater than the number of spaces of relief needed, then no special permit for parking relief is required.*

*\*\* See Staff's opinion of this fifth parking space earlier in this section.*

**Pursuant to Section 9.13 of the SZO, the Board provides the following assessment of this project against the following categories:**

Increase in traffic volumes

The density on this site will increase from one residential unit to three residential units. There exists the possibility of additional vehicles using this and surrounding streets to enter and exit the property once the project is complete. Taken independently, an increase of two residential units and a minimum of one car associated with each the Board does not find would constitute any significant increase in traffic volumes.

1. Increased traffic congestion or queuing of vehicles

As noted above, the Board does not find that the increase in two residential units on the site will create traffic congestion of queuing of vehicles – entering or existing the site or the immediate area.

2. Change in the type(s) of traffic

As the use of the property is remaining residential, changes in the types of traffic is not anticipated. The neighborhood can expect an up-tick in construction-related traffic during the active construction period on the site. However, this type of traffic will be limited to the project duration

3. Change in traffic patterns and access to site

The traffic pattern on Franklin Street will remain as it does today. Access to the site will be from the same direction as current.

4. Reduction in on-street parking

Because two additional residential units are being added to the property, it is fair to say that there may be an increase in the number of vehicles used by residents of the site and, consequently, there may or may not be a need for some of the residents and their guests to use on-street parking.

5. Unsafe conflict of motor vehicle and pedestrian traffic

The Board has recommended earlier in this report that a proposed fifth parking space located along the right side of the driveway just off from the street be eliminated and landscaping installed in its stead. Due to the siting of the other four parking spaces under the new addition, those four vehicles will be able to drive forward out of the site rather than having to back out of the property onto the street.

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*



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*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 purposes of the RB zone which are "[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 one-to-three unit proposal is consistent with what is allowed in the RB zone from a site density perspective.

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."*

The proposed upgrades to this property will visually improve the site from the public way. Franklin Street and the immediate surrounding residential neighborhood consists of one-, two-, three-, and multi-family residential buildings. A school is also nearby. The proposal maintains the gable-fronted single-family structure on the site, keeping that portion of the streetscape consistent with current conditions. The bulk of the changes to the site in terms of form and massing occur deeper in the lot. Though these additions will be visible from the public way, their design provides a visual improvement to the neighborhood.

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

The proposal will not add to the existing stock of affordable housing.

6. **SomerVision:**

The proposal will improve the visual appearance of an existing property and will add two more dwelling units to the City's housing stock.

**DECISION:**

**Special Permit under §4.4.1 and Article 9**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for the Special Permit. Elaine Severino seconded the motion. 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 to construct a rear addition, raise the roof height by 24 inches, add left elevation dormers, increase the GFA by more than 25%, parking relief and general exterior modifications	BP/CO	ISD/Ping.											
	<table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 30%;">Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 1, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>March 28, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>March 29, 2018</td> <td>Certified copy of plot plan submitted to OSPCD</td> </tr> <tr> <td>May 8, 2018</td> <td>Updated landscaping plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 1, 2018	Application submitted to City Clerk's office.	March 28, 2018	Updated plans submitted to OSPCD	March 29, 2018	Certified copy of plot plan submitted to OSPCD	May 8, 2018	Updated landscaping plans submitted to OSPCD
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May 8, 2018	Updated landscaping plans submitted to OSPCD													
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.														
<b>Design</b>														
1	All materials, including, but not limited to windows, exterior finishes, siding, and similar shall be submitted to, reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Ping											
<b>Construction Impacts</b>														
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	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/ISD											
4	The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to see.	During Construction	ISD											
5	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD											
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/Ping/Eng.											



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7	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	Engineering/ISD	
<b>Public Safety</b>				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
10	The building shall be sprinkled	CO	FP	
11	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	FP	
12	In accordance with City of Somerville ordinances, no grills, barbeques, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetual	ISD/PingFP	
<b>Site</b>				
13	All plantings and their locations along with all hardscaping materials, design and location for driveways, walkways, fencing, etc., shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/Ping	
14	No vents shall exit on the Franklin Street façade of the structure. All venting, pipes, conduits and the like shall be painted the same color as the exterior of the structure from which they protrude.	CO	ISD/Ping	
15	Utility meters shall not be installed on the front façade of the building (Franklin Street façade).	CO	ISD/Ping	
16	All bituminous material shall be removed from the site.	CO	ISD/Ping	
17	All materials for hardscaping shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit	BP	ISD/Ping	
18	Vinyl siding, trim, fencing, or decking material shall not be used on this site	CO	ISD/Ping	
19	All mechanicals shall be screened from view from the public way. All screening materials shall be reviewed and approved by Planning Staff prior to installation	CO	ISD/Ping	
20	The location of mechanicals (such as AC condensers) shall be first reviewed and approved by the Zoning Review Planner prior to their installation.	BP	ISD	
21	Garbage and recycling shall be stored out-of-view from the public way and shall be screened. Screening material and storage location shall first be reviewed and approved by Planning Staff	CO	ISD	



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22	Remove the proposed surface parking space located at the right side of the new driveway. Work with Planning Staff to create meaningful landscaped buffer in this same area that is at least equal to the size of a standard parking space.		ISD/Ping	
<b>Utilities</b>				
23	Utilities shall be buried unless ordered otherwise by Lights and Lines.	CO	Lights and Lines/ISD	
<b>Final Sign-Off</b>				
24	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	Ping.	



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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Daniel Evans  
Anne Brockelman (*Alt.*)

Attest, by City Planner:

  
Sarah 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**

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 June 13, 2018 in the Office of the City Clerk, and twenty days have elapsed, and

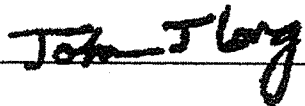
FOR VARIANCE(S) WITHIN

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 \_\_\_\_\_

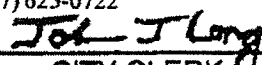


City Clerk

Date July 23, 2018



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