



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

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Case #: ZBA 2017-51
Site: 27 Belmont Street
Date of Decision: July 12, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 26, 2017

ZBA DECISION

Applicant Name:	Alison Ellis
Applicant Address:	27 Belmont Street, Somerville, MA 02143
Property Owner Name:	Alison Ellis
Property Owner Address:	27 Belmont Street, Somerville, MA 02143
Agent Name:	N/A

Legal Notice: Applicant and Owner, Allison Ellis, seeks a Variance under Section 5.5 and 9.8.d of the Somerville Zoning Ordinance (SZO) to locate/legalize a parking space within the front yard of the property.

<u>Zoning District/Ward:</u>	RB Zone. Ward 3
<u>Zoning Approval Sought:</u>	§5.5 & §9.8.d
<u>Date of Application:</u>	May 23, 2017
<u>Date(s) of Public Hearing:</u>	6/21 & 7/12/17
<u>Date of Decision:</u>	July 12, 2017
<u>Vote:</u>	4-1

Appeal #ZBA 2017-51 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on June 21, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to locate/legalize a second parking spot within the front yard of the site to the right of the front steps (where the black SUV is pictured in the photograph).

**FINDINGS FOR VARIANCE (SZO §5.5):**

A Variance (§5.5) is sought to locate/legalize parking in the front yard of the locus as parking within the front yard in the RA and RB zoning districts is prohibited under §9.8.d.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

Applicant's response: Due to the narrowness of the house lot, and especially the side yard to the left of my house, I cannot have a side driveway and am thus unable to park two cars in a tandem arrangement.

I live midway between Summer Street and Somerville Avenue. This long block of Belmont Street is very steep. It is also a very congested street, with limited parking availability. Most owners and renters on the block are working people or students who take public transportation and don't move their cars for days and days, particularly after winter storms. If I am required to park my car on the street, I may have to carry heavy groceries quite a distance up or down the steep street. My life partner is a professional musician. He may need to carry heavy musical equipment up or down the steep street. We are both 62 years old. Being unable to park a second car will cause a hardship, especially as we age.

Mr. Richardson of Inspectional Services came to my house on March 3, 2017 to inspect basement work underway. At that time, he advised me that I "couldn't park that way." There have been other occasions when Somerville Inspectional Services personnel have come to my house to inspect work. For example, in 2012 I had my front steps rebuilt. The cars were parked in the same way and the inspector did not inform me that I was in violation.



Since settling in Somerville in January 1993 and purchasing 27 Belmont Street in November 1993, I have seen many, many positive changes in the city, some of it fueled by significantly and rapidly increasing property taxes. I am willing to pay my share. However, not allowing me to park two cars has reduced the value of my home.

The Board's response: The narrow shape of the locus creates a hardship in the sense that it prohibits a driveway from being located on either side of the site as the left side yard is only seven feet wide and the right side yard is only two feet wide; therefore, the only accessible area to provide the required number of off-street parking spaces is within the front yard. Legally only one car is allowed to park within the front yard to the left of the stairway because that area has been used as a parking space since before 1991 when parking within the front yard became prohibited.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Applicant's response: One additional parking spot, to the right of the front stairs, is the minimum variance that could be requested, and would be a reasonable use of the land. I have been parking two cars, to the right and left of my front stairs, without incident and without complaints from neighbors since 1998.

The Board's response: The Board agrees that one additional parking space, to the right of the front stairs, is the minimum variance that could be requested, and would be a reasonable use of the land.

3. *"The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."*

The Board's response: As noted above, I have parked two cars in front of my home since summer 1998, with no complaint from or harm to neighbors. Please see the attached confirmations from neighbors (owners) who can see my front yard.

One purpose of Somerville zoning (section 1.2) is to lessen street congestion. Allowing me to continue to park two cars off the street allows me, and the City, to do just that.

The Board's response: Allowing a second parking spot on the locus would lessen congestion on the street. Also, the Board finds that it would not be injurious to the neighborhood or detrimental to the public welfare as two cars have been parked there for 19 years with no complaints.



DECISION:

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

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for locating a parking space within the front yard. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>May 23, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr></table>				Date (Stamp Date)	Submission	May 23, 2017	Initial application submitted to the City Clerk’s Office
	Date (Stamp Date)				Submission			
	May 23, 2017				Initial application submitted to the City Clerk’s Office			
Any changes that are not <i>de minimis</i> must receive SPGA approval.								
Traffic & Parking								
2	Vehicles shall not overhang onto the public sidewalk.	Cont.	ISD/Plng.					
Public Safety								
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP					
Final Sign-Off								
4	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.					
5	The granting of this Variance is valid only as long as the dwelling remains a single family.	CO	ISD/Plng.					
6	No additional curb cuts shall be created at the locus.	Cont.	Plng./ISD/DPW					

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Josh Safdie
Anne Brockelman (Alt.)

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies 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 _____

