



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2018-38
Site: 1252 Broadway
Date of Decision: March 6, 2019
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: March 12, 2019

ZBA DECISION

Applicant Name: Eric J. Silva
Applicant Address: 1252 Broadway, Somerville, MA 02144
Owner Name: Eric J. Silva
Owner Address: 1252 Broadway, Somerville, MA 02144
Alderman: Katjana Ballantyne

Legal Notice: Applicant & Owner, Eric J. Silva, sees Special Permits under §4.4.1 of the SZO to alter a non-conforming property by increasing the Gross Floor Area (GFA) by more than 25%, increase the number of dwelling units from three to 5, construct a dormer within the right side yard setback. Parking relief under Article 9 of the SZO. RC zone. Ward 7.

<u>Zoning District/Ward:</u>	RC zone. Ward 7.
<u>Zoning Approval Sought:</u>	SZO §4.4.1 and Article 9
<u>Date of Application:</u>	March 14, 2018
<u>Date(s) of Public Hearing:</u>	9/17, 10/3, 10/17, 10/24, 11/7, 11/28, 12/12, 1/9, 1/23, 2/6, 2/20, 3/6
<u>Date of Decision:</u>	March 6, 2019
<u>Vote:</u>	5-0

Case # ZBA 2018-38 was opened before the Zoning Board of Appeals in the Council Chambers at Somerville City Hall. 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 March 6, 2019 the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

The Applicant proposes to renovate the entire property and re-landscape the site. A large, left elevation addition is proposed. Specific changes to the property are noted below with modifications requiring special permits noted in parentheses:

- Increase the number of dwelling units from three (3) to five (5)
- Increase the gross floor area (by more than 25%) by 1,049 square feet through a left elevation addition (**Special Permit**)
- Increase the floor area ratio from .41 to .92 (the RC zone allows an FAR of 2.0)
- Parking relief for 3.0 spaces (**Special Permit**)
- Construct a dormer within the right side yard setback (**Special Permit**)

II. FINDINGS FOR SPECIAL PERMIT (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 §5.1.4 of the SZO. This section of the report goes through these findings in detail.

Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.4 of the SZO and allows The Planning Board to perform an analysis of the proposal for Special Permitting relief.

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 Article 9 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)

Section 4.4.1 of the SZO requires that an Applicant obtain a special permit in order to increase the GFA of a structure by more than 25%. In the case of 1252 Broadway, the existing GFA is 1571 and the proposed GFA is 2620, an increase of more than 25%. The purpose of the GFA increase is to add two more dwelling units to the property

Right side yard setback



The Applicant proposes a dormer on the right elevation and within the right side yard setback. The right side yard setback is currently 2.7 feet. The dormer would terminate 5.3 feet from the property line. Though this is still non-conforming, it would be an “improvement” of the non-conformity.

Regarding Article 9 of the SZO

There are currently three (3) parking spaces provided under existing conditions. Given the existing bedroom count, the locus should be providing 4.5 spaces on-site. The Applicants will provide 5 on-site parking spaces: 4 standard and 1 compact. The bedroom count and required parking numbers appear in the table below, with the formula following.

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	2	1.5	Unit 1	2	1.5
Unit 2	1	1.5	Unit 2	2	1.5
Unit 3	1	1.5	Unit 3	2	1.5
Unit 4	n/a	n/a	Unit 4	2	1.5
Unit 5	n/a	n/a	Unit 5	2	1.5
Total: 4.5			Total: 7.5		

*Parking formula: New Parking Req. – Old Parking Req. = new spaces required**

1252 Broadway: $7.5 - 4.5 = 3.0$

Relief for 3.0 spaces is needed.

**When this result is < 1 or a negative number, no parking relief is required.*

Since the November 28, 2018 ZBA hearing, the parking schematic has been re-designed such that four (4) standard-sized parking spaces will be provided and one (1) parking space.

Additional Findings

In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood on an on-going basis. This property directly abuts an active rail bed. 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.

Lastly, impacts on municipal water supply and sewer capacity will be examined by Engineering. 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. This is a condition that has been recommended for any approvals given.

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 Board finds that the subject property is already non-conforming with regard to the lot size, parking, and right side yard setback. An Applicant may request to maintain, improve, or intensify these existing non-conformities under Special Permit.

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 Applicant’s proposal will retain the original structure on the site while adding a large, left elevation addition that is intended to look like another 2 ½-story residential structure.

At the November 28, 2018 ZBA hearing, the ZBA indicated that they were not in favor of the “drive-thru”-style entrance to the site. The applicant team has re-designed the site such that the “drive-thru” has been eliminated. The enlarged structure has been re-designed such that it reads more like a building with a large addition than a building with a mirror image structure attached to it.

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 would add two more residential units to Somerville’s housing stock.

III.DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, Josh Safdie, and Anne Brockelman. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request **WITH CONDITIONS**. The following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to increase the GFA by more than 25%; three spaces of parking relief; provide a total of 1 compact parking space and 4 standard spaces; construct a dormer within the right side yard setback.	BP/CO	ISD/Plng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 14, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>March 3, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>October 19, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>December 17, 2018</td> <td>Updated proposal submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 14, 2018	Application submitted to City Clerk's office.	March 3, 2018	Updated plans submitted to OSPCD	October 19, 2018	Updated plans submitted to OSPCD	December 17, 2018	Updated proposal submitted to OSPCD
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<p style="color: red;">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.</p>														
Design														
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/Plng											
2	The proposed dormer on the front left elevation must have a minimum pitch of 4/12. Plans shall be updated to reflect this prior to the issuance of a building permit and submitted to ISD.	BP	ISD/Plng											
3	All materials to be used on the exterior of the project shall first be submitted to, reviewed and approved by Planning Staff prior to ordering and installation and, certainly, prior to the issuance of a building permit. No vinyl products shall be considered.													
Construction Impacts														
4	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											
5	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											



6	The name(s) and contact information of all entities working on the site shall be posted in an easily-visible area at the job site.	During Construction	ISD	
7	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
8	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/Plng/Eng.	
9	The applicant must comply with the “Policy for 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 the Engineering Division to meet this condition and provide the required fees/mitigation.	BP	ISD/Eng.	
10	If, due to Engineering Division requirements regarding finishing basements, the Applicant finds that the foundation of the building will be more exposed than currently presented and/or, the height of the building will change from that which is on any ZBA-approved plans, the Applicant MUST come back to the ZBA to request a revision to their zoning approvals PRIOR TO executing changes to the project in-the-field.	Pre- and during construction.	ISD/Eng/Plng	
Public Safety				
11	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
12	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
13	The building shall be sprinkled.	CO	Fire Prevention / ISD	
14	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.	CO	ISD	
15	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/PlngFP	
Site				
16	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/Plng	
17	No vents shall exit on the Broadway façade of the structure. All venting, pipes, conduits and the like shall be painted or wrapped the same color as the exterior of the structure from which they protrude.	CO	ISD/Plng	
18	Utility meters shall not be installed on the front façade of the building Broadway façade.	CO	ISD/Plng	



19	All bituminous material shall be removed from the site. The proposal currently contains a plan for a partial asphalt driveway. <u>There shall be no asphalt used on the project. This area shall be covered with permeable pavers instead.</u> An updated landscaping plan shall be submitted to ISD showing this change prior to the issuance of a building permit.	BP & CO	ISD/PIng	
Final Sign-Off				
20	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.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Elaine Severino
Richard Rossetti
Josh Safdie
Anne Brockelman

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

