



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

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Case #: ZBA 2018-26
Site: 45 Dane St
Date of Decision: June 6, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 13, 2018

ZBA DECISION

Applicant Name: Alex Van Praagh
Applicant Address: 95 Antrim Street, #3, Cambridge, MA 02139
Property Owner Name: Philbrick Holdings, LLC
Property Owner Address: 182 Walnut Street, Brookline, MA 02445
Alderman: J.T. Scott

Legal Notice: Applicant, Alex Van Praagh, and Owner, Philbrick Holdings LLC, seek a Special Permit with Site Plan Review under SZO §7.2 to construct a second principle structure on the lot to build a new single-family dwelling and Special Permits under SZO §4.4.1 and §9.13 to do a gut renovation of the existing nonconforming three-family dwelling and convert it into a two-family dwelling and to add rear porches and a side egress stair. RC Zone. Ward 2.

<u>Zoning District/Ward:</u>	RC Zone. Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1, §9.13, and §7.2
<u>Date of Application:</u>	February 15, 2018
<u>Date(s) of Public Hearing:</u>	5/2/18, 5/16/18, 6/6/18
<u>Date of Decision:</u>	June 6, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-26 was opened before the Zoning Board of Appeals in the Aldermanic Chambers of Somerville City Hall, 93 Highland Avenue. 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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I. DESCRIPTION:

The proposal is to do a gut renovation of the existing nonconforming three-family dwelling and convert it into a two-family dwelling and to add rear porches and a side egress stair. The construction of a new single-family dwelling is also proposed on the site.

The existing building will become a two-unit building with the ground floor and basement used for one (three-bedroom) unit and the second and third floor to be used for a second (three-bedroom) unit. Other modifications to the existing structure include:

- constructing an egress stair within the nonconforming left side yard;
- constructing a three-story porch within the nonconforming rear yard;
- enlarging the penthouse on the roof to provide access to a proposed roof deck;
- replace all windows, doors, siding, and trim; and,
- reconstructing the front entry porch within the nonconforming front yard

The proposed new contemporary style single family dwelling will include four bedrooms and a below-grade parking area that includes one space for unit 3 and two tandem spaces for unit 1. The new structure will have a front entry off of Dane Street as well as a side entry off of Village Street. A roof deck is also proposed on top of the new structure.

The applicant is also proposing improvements to the site that new landscaping and two permeable paver driveways; one to the left of the existing building for two tandem spaces that will be allocated to unit 2 and one in the rear to access the below-grade parking and an at-grade parking space for unit 3. The six-foot tall fences along the side and rear property lines are proposed to be rebuilt and an eight foot-tall fence is proposed to be rebuilt within the front yard, except for at the intersection where it is proposed to be 3.5 feet tall.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 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.

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 with site plan review.”*



Section 4: Nonconforming Uses and Structures

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, front yard setback, rear yard setback, and left side yard setback.

The proposal will impact the following nonconforming dimensions: front yard setback, rear yard setback, and left side yard setback.

	<i>Existing</i>	<i>Proposed</i>	<i>Required</i>	<i>Nonconforming Nature</i>
Front yard	5.5 ft	5.5 ft	15 ft	No change
Rear yard	1.5 ft	3.0 ft	20 ft	Less nonconforming
Left side yard	1 ft	2.0 ft	10 ft	Less nonconforming

These alterations to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (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.”

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. The proposal will improve the condition of the existing building and the overall site. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, landscaped area, pervious area, floor area ratio, building height, right side yard setback, and street frontage will continue to be conforming to the requirements of the SZO.

Article 9: Off-Street Parking and Loading

	Existing Requirement		Proposed Requirement	
Unit #1	2 BR	1.5 spaces	3 BR	2 spaces
Unit #2	3 BR	2 spaces	3 BR	2 spaces
Unit #3	2 BR	1.5 spaces	4 BR	2 spaces
Total	5 spaces		6 spaces	

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 six or fewer. The locus is currently nonconforming with respect to the number of required off-street parking spaces as five spaces are required and four are provided on the site. The proposal increases the parking requirement by one space.

Since the locus does not currently have sufficient off-street parking and there is an increase in net floor area, SZO §9.4.2 requires the Applicant to provide the one additional required parking space. Although the proposed plans show six parking spaces on the site, two of those spaces are in tandem with other spaces. Therefore, for zoning purposes, the site is proposing four spaces. There is not enough space on the parcel to add the required space in a practical way. A special permit is being requested from providing the one additional required parking space.



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 Board 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.

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 conserve the value of land and buildings; to adequately protect the natural environment; 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 RC district, which is, “to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.*

Surrounding Neighborhood: The locus is located near the intersection of Dane Street, Village Street and Dane Avenue and the railroad bridge on Dane Street. The entirety of Dane Street is an eclectic mix of older, single-story former industrial buildings and single-, double-, and three-family, wood-framed residential properties built in a traditional style (pitched roofs with gables fronting Dane Street and flat-topped triple-decker). The proposed flat roof structures would fit in with the style and would be consistent with the character of the neighborhood. There are triple-deckers in the neighborhood that also have penthouses.

Impacts of Proposal (Design and Compatibility): The proposed modifications to the existing structure will not significantly alter its design and compatibility with the neighborhood. The proposed front porch will be reconstructed to take up less of a footprint and the appearance will be enhanced. The vinyl siding will be removed and replaced with cedar clapboards or fiber cement siding. The existing penthouse will be slightly enlarged.

The proposed new structure will follow a contemporary design that fronts Village Street and Dane Street. It will be clad with dark gray and cedar or redwood fiber cement siding. The Dane Street elevation will include a centralized front porch and a first level porch. The Village Street elevation will include a side entry and a third floor deck. There is a proposed roof deck as well that will be accessed from the third



floor deck. The overall site will be improved with permeable pavers and landscaping. The existing 8 foot-tall fence in the front yard will be reconstructed as it serves as a light block and safety barrier from vehicles coming over the bridge north of the site on Dane Street.

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

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, and 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.

DECISION:

Special Permit under §4.4.1

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 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						
1	Approval is for renovations to an existing structure and the construction of a new second structure on the lot. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>February 15, 2018</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>May 21, 2018</td><td>Plans submitted to OSPCD (T1.0, S1.0, E1.1, E1.2, A1.0, A1.1, A1.2, A1.3, A1.4, A3.0, A3.1, A3.2, and A3.3)</td></tr></table>				Date (Stamp Date)	Submission	February 15, 2018	Initial application submitted to the City Clerk's Office	May 21, 2018	Plans submitted to OSPCD (T1.0, S1.0, E1.1, E1.2, A1.0, A1.1, A1.2, A1.3, A1.4, A3.0, A3.1, A3.2, and A3.3)
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Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng							



3	If required by the City of Somerville Engineering Department, the proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. If necessary, the seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.	
4	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Eng.	
5	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	Eng.	
6	The Applicant must 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 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
7	The Applicant and/or Owner shall file a plan with the Planning Director that merges the two parcels together and record said plan at the South Middlesex Registry of Deeds and/or Land Court.	BP	Plng.	
Construction Impacts				
8	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	Plng.	
9	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	
10	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	
Design				
11	Applicant shall provide final material samples for siding, trim, windows, and doors (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to construction.	BP	Plng.	
Site				
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	



13	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
Miscellaneous				
14	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hardy, staff approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived by staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	ISD	
15	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	
16	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
17	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
18	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	
19	Fences on the property shall be no higher than 6 feet. The portion at the Dane St./Village intersection shall be 3.5 feet tall.	CO	Plng./ISD	
Public Safety				
20	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
21	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
22	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.	
Final Sign-Off				



23	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.	
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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: _____

Alexander Mello

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 _____

