



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

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ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2018-85**  
**Site: 54 Dane St**  
**Date of Decision:** September 17, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** September 26, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** Ronald and Emily Axelrod  
**Applicant / Owner Address:** 26 B Shepard Street, Cambridge, MA 02138  
**Alderman:** J.T Scott

**Legal Notice:** Applicants/Owners, Ronald and Emily Axelrod, seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure by constructing an addition greater than 25% of the existing gross floor area to create an additional dwelling unit that will make it a two-family dwelling. RB Zone. Ward 2.

*\*The existing structure is a two-family dwelling.*

<u>Zoning District/Ward:</u>	RB Zone. Ward 2.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 13, 2018
<u>Date(s) of Public Hearing:</u>	September 17, 2018
<u>Date of Decision:</u>	September 17, 2018
<u>Vote:</u>	4-0

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Appeal #ZBA 2018-85 was opened before the Zoning Board of Appeals in the SHS Auditorium, 81 Highland Ave, 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. On September 17, 2018, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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## I. DESCRIPTION:

The proposal includes altering the existing structure by demolishing a small addition on the right side of the house, altering dormers on both sides of the roof, constructing a rear addition, and reconfiguring the entire interior layout. As a result of the proposed work, the structure will remain a two-family dwelling with the two units being arranged behind one another. The front unit will contain three-bedrooms and the rear unit will have two-bedrooms.

## 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 §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 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."*

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

The proposal will impact the nonconforming dimensions of the left side yard setback. The current dimension is zero feet as the structure is currently on the left property line. The proposal is to demolish the two gable dormers on the left side of the structure and construct a shed dormer. The existing gable dormers are aligned with the exterior building wall below and the proposed shed dormer will come in from the left edge of the house by three feet. The existing zero foot setback will remain. The proposed dormer will improve the existing nonconformity. This alteration 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 one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5.”

The total increase in gross floor area (GFA) will be greater than 25%. The existing GFA is 1,503 s.f and the proposal is to add 1,380 s.f to increase the GFA to 2,883s.f, or 92% of the existing structure. The footprint of the proposed addition will conform to all dimensional requirements of the SZO.

Section 4.4.1 states that “*Alteration, reconstruction, extension or structural change to a nonconforming one- or two-family structure not affecting the nonconforming aspect of the one- or two-family structure and where the alteration, reconstruction, extension, or structural change will comply with all current dimensional requirements of the zoning ordinance, and provided any such alteration, reconstruction, extension or structural change does not increase the Gross Floor Area of the dwelling by more than twenty-five percent (25%).*”



In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposal will allow for the structure to create two larger residential units in a manner that complies with the dimension requirements of the SZO. The proposal has been designed with setbacks that minimally impact the neighbors.

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 RB 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."

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."*

*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 addition 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 existing structure is a 2.5 story gable end structure. The proposal is to construct a three-story flat roofed structure in the rear albeit a bit lower than the ridge of the existing structure. The overall site design will be enhanced with improved landscaping.

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.*

### III. DECISION:



**Special Permit under §4.4.1**

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Anne Brockelman, and Josh Safdie. Upon making the above findings, Josh Safdie made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a rear addition and a shed dormer. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 13, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 4, 2018</td> <td>Existing plans submitted to OSPCD (X1.01R, X1.02R, and X1.02A)</td> </tr> <tr> <td>September 5, 2018 (received on September 12, 2018)</td> <td>Modified plans submitted to OSPCD (A0.00, A1.01R, A1.02R, A1.03R, A1.04R, A1.05R, A1.06R, A1.07R, A1.08R, and A1.09)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 13, 2018	Initial application submitted to the City Clerk's Office	August 4, 2018	Existing plans submitted to OSPCD (X1.01R, X1.02R, and X1.02A)	September 5, 2018 (received on September 12, 2018)	Modified plans submitted to OSPCD (A0.00, A1.01R, A1.02R, A1.03R, A1.04R, A1.05R, A1.06R, A1.07R, A1.08R, and A1.09)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
<b>Pre-Construction</b>												
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.									
3	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.									
4	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.									
5	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.									
<b>Construction Impacts</b>												
6	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.									



7	The Applicant shall at their 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	
8	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	
<b>Design</b>				
9	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
<b>Site</b>				
10	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
11	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	
12	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.	
13	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.	
14	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.	
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.	Cont.	ISD	



<b>Public Safety</b>				
16	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
17	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
18	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.	
<b>Final Sign-Off</b>				
19	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*  
Elaine Severino  
Josh Safdie  
Anne Brockelman, *Alt.*

Attest, by City Planner:

\_\_\_\_\_  
Alexander C. 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 \_\_\_\_\_

