



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

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2018-70**  
**Site: 27 Everett Ave**  
**Date of Decision:** July 18, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** July 23, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** Solomon Mezgebu  
**Applicant / Owner Address:** 27 Everett Avenue, Somerville, MA 02145  
**Agent Name:** Richard G. DiGirolamo, Esq.  
**Agent Address:** 424 Broadway, Somerville, MA 02145  
**Alderman:** Matthew McLaughlin

**Legal Notice:** Applicant/Owner, Solomon Mezgebu, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure and §9.13 for parking relief to legalize an existing third dwelling unit. RB Zone. Ward 1.

Zoning District/Ward: RB Zone. Ward 1.  
Zoning Approval Sought: §4.4.1 and §9.13  
Date of Application: May 16, 2018  
Date(s) of Public Hearing: July 18, 2018  
Date of Decision: July 18, 2018  
Vote: 5-0

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Appeal #ZBA 2018-70 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville. 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.



**DESCRIPTION:**

The applicant is seeking parking relief to legalize the third unit in the basement.

**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 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, landscaped area, pervious area, front yard setback, rear yard setback, and left side yard setback.

The proposal will not impact any of the nonconforming dimensional requirements. Exterior alterations will be limited to the right side of the house, which conform to setback requirements. Various interior alterations are also proposed. 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 is to legalize what has already been existing on the property for years. Any impacts of such have already been experienced by the neighborhood. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, floor area ratio (FAR), 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		Proposed	
Unit #1	4 BR	2 spaces	2 BR	1.5 spaces
Unit #2	4 BR	2 spaces	4 BR	2 spaces
Unit #3	-	-	2 BR	1.5 spaces



Total	4 spaces	5 spaces
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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 four spaces are required and two 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 a unit is being added to the property that increases the parking requirement by one space, SZO §9.4.1 requires the Applicant to provide the required additional space. Relief is being requested from providing the additional one parking space that cannot be accommodated in the site plan.

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 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:* Everett Avenue is a residential street located between McGrath Highway and Cross Street. It is comprised of single, two-, and three-family dwellings.

*Impacts of Proposal (Design and Compatibility):* There will be minimal exterior alterations that will not have an impact on the design and compatibility of the structure.

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.

**DECISION:**

**Special Permit and Special Permit with Site Plan Review under §4.4.1 and §9.13**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a **Special Permit** and **Special Permit with Site Plan Review**. 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						
1	Approval is to legalize a third unit. 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>May 16, 2018</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 7, 2018</td> <td>Plans submitted to OSPCD (CI, A-000, A-020, A-021, A-022, A-101, A-300, EX-100, and EX-101)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 16, 2018	Initial application submitted to the City Clerk’s Office	May 7, 2018	Plans submitted to OSPCD (CI, A-000, A-020, A-021, A-022, A-101, A-300, EX-100, and EX-101)
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	May 16, 2018				Initial application submitted to the City Clerk’s Office					
May 7, 2018	Plans submitted to OSPCD (CI, A-000, A-020, A-021, A-022, A-101, A-300, EX-100, and EX-101)									
Any changes to the approved elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
<b>Construction Impacts</b>										
2	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.							
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							
<b>Design</b>										
4	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>										
5	Landscaping shall be installed and maintained in compliance with the American Nurserymen’s Association Standards;	Perpetual	Plng. / ISD							
6	The surface material of the parking spaces shall be permeable pavers.	CO	Plng.							



7	Prior to the issuance of a building permit, the Applicant shall submit a landscaping plan to be reviewed and approved by Planning Staff that maximizes that amount of green space and includes a permeable walkway for egress from the side entries.	BP	Plng.	
<b>Miscellaneous</b>				
8	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.	
9	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>				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
12	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>				
13	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*  
Richard Rossetti  
Danielle Evans  
Elaine Severino  
Josh Safdie  
Anne Brockelman (*Alt.*)  
Pooja Phaltankar (*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 \_\_\_\_\_

