



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

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**Case #: ZBA 2017-121**  
**Site: 42 Flint Street**  
**Date of Decision:** January 31, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** February 13, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** Elan Sassoon  
**Applicant / Owner Address:** P.O. Box 610312, Newton, MA 02461  
**Alderman:** Matthew McLaughlin

**Legal Notice:** Applicant, Elan Sassoon, and Owner, Courtney Pham, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure by increasing the gross floor area (GFA) by more than 25%, and a linear extension of the non-conforming right side yard setback. Relief is sought under §7.11 of the SZO to increase the number of units from two to three and parking relief under Article 9 of the SZO. RB zone. Ward 1.

<u><b>Zoning District/Ward:</b></u>	RB Zone. Ward 1
<u><b>Zoning Approval Sought:</b></u>	§4.4.1, §7.11, Article 9
<u><b>Date of Application:</b></u>	November 17, 2017
<u><b>Date(s) of Public Hearing:</b></u>	January 31, 2018
<u><b>Date of Decision:</b></u>	January 31, 2018
<u><b>Vote:</b></u>	5-0

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Appeal #ZBA 2017-121 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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**DESCRIPTION:**

1. **Subject Property:** The subject property is a 1.5-story single-family Mansard dwelling house situated on a 5,227 square foot lot in the RB zone.
2. **Proposal:** The Applicant proposes increasing the number of units from one to three by adding an addition to the rear of the structure. This will increase the net floor area by more than 25% (which will, in turn, increase the FAR by more than 25%). In order to achieve the goals of this proposal, the Applicant will be extending the non-conforming right side yard setback down toward the rear of the lot. The Applicant also seeks parking relief.

3. **Green Building Practices:**

The Application states that there will be “limitation of demo material, recycling where possible to reduce solid waste disposal. Use of water saving plumbing fixtures. Use of energy efficient lighting.”

**II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & Article 9):**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.*

1. **Information Supplied:**

The Board finds that the information provided by the Applicant with regard to the interior arrangement of the structure and exterior elevations conforms to the requirements of §4.4.1 of the SZO. However, the Board finds that the certified plot plan is still needed. (Note: the certified plot plan was provided to the Board at the meeting.)

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."*

**Regarding §4.4.1, §7.11, and §9.13 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.”*

The Board finds that, in principal, creating two additional dwelling units on this property is consistent with the purposes of the RB district which allows for medium-density properties of

one-, two-, and three-family dwelling units. The Board finds that the increase in the number of units from one to three will not greatly increase the number of vehicles utilizing on-street parking or create further traffic congestion. The Board further finds that any up-tick in vehicular traffic from two new units is not enough to substantially tax the area parking situation. Two additional dwelling units will increase demand on the City sewer capacity. Regular noise and odor typical of city living are to be expected on this site.

Though there will be more massing added to the rear of this building, at 1 ¾-stories, this height should be minimally impactful with regard to shadowing abutting properties. Additional visual effects from this proposal will be confined to the rear of the property and will be minimally visible from the public way. The proposed Mansard style of the additions to this property are consistent with the design currently extant on the original, single-family portion of this property.

The proposed increase in FAR is more than 25%. A good portion of this FAR increase will occur at the basement level both in the existing structure and in the rear addition. The 1 ¾-story portion of the rear addition that will protrude from the ground will be visible to abutting properties and not visible from the public way at the front of the parcel. The proposed style of the addition is in keeping with the Mansard style of the original structure. As noted elsewhere in this report, the Applicant's inclusion of indentations (both along the right and left facades of this building) help break up the visual expanse of the building.

Under §7.1.1 of the SZO, an Applicant may request to increase the number of dwelling units on a property. In order to do so, the Applicant's proposal must meet the lot area per dwelling unit ration for their district. In the case of the RB district, the required lot area per d.u. is 1,500. Under the proposed 3-unit scenario, the Applicant will have 1,742 square feet of lot area per d.u. above the minimum required limit.

Lastly, the Applicant requests parking relief under §9.13 of the SZO. The parking calculation is as follows:

Unit #	Existing Bdr	Req. parking	Proposed Bdr	Proposed parking
1	1	1.5	3	2.0
2	n/a	n/a	2	1.5
3	n/a	n/a	3	2.0
	<b>TOTAL</b>	<b>1.5</b>	<b>TOTAL</b>	<b>5.5</b>

Parking calculation:

New parking requirement – Old parking requirement = No. of spaces needed for relief

$$5.5 \text{ spaces} - 1.5 \text{ spaces} = 4.0 \text{ spaces}$$

The Applicant is able to provide one (1) parking space on-site. This reduces the overall relief request from four spaces of relief to three. Therefore,  $4 - 1 = 3.0$  spaces of relief are sought.

As is consistent with ZBA practice, the ZBA does not typically approve "amenity" parking on any project site. The Board finds that granting 3.0 spaces of parking relief will not be more injurious to the site or



surrounding neighborhood and will also be in keeping with the ZBA's policy surrounding amenity parking.

**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 Board finds that finishing the basement, increasing the FAR and adding two dwelling units are consistent with the purpose of the RB district which is to "...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."*

In considering a special permit under §4.4.1 of the SZO, the Board finds the following with regard to the items triggering the need for special permits:

Right yard setback: The right yard setback is currently at 2.9 feet in an area where 8 feet is required. Though the Applicant proposes extending this non-conforming dimension linearly toward the back of the lot, the Board notes that the Applicant has created indentations along the right elevation in order to provide a visual respite from an otherwise long, continuous façade.

**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 will improve an existing property and increase the number of available units from one to three.

### III. DECISION

#### **Special Permits under §4.4.1 and §7.11**

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Board **RECOMMEND CONDITIONALLY APPROVES** of the requested **SPECIAL PERMITS** at this time due to insufficient information.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Board during the public hearing process.



#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for an increase in FAR of more than 25%, parking relief and the construction of an addition to increase the number of units on the site from 1 to 3.	BP/CO	ISD/Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>November 11, 2017</td><td>Application submitted to City Clerk’s office.</td></tr></table>				Date (Stamp Date)	Submission	November 11, 2017	Application submitted to City Clerk’s office.
	Date (Stamp Date)				Submission			
November 11, 2017	Application submitted to City Clerk’s office.							
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.								
Design								
2	The dormer shall be clad in the same material as the rest of the siding on the house.	CO	Planning Staff / ISD					
3	Any new window openings within three feet of the property line on this building must be fire-rated, inoperable windows, in keeping with building code.	BP with recheck at CO	Planning Staff / ISD					
4	Staff-approved windows, including their placement, are required on the wall plane of the right elevation dormer. Depending on the window placement, Staff may also require, review, and approve an appropriate architectural element.							
5	Any changes to the design, style, massing, form, elements, and materials of the shed dormers shall be submitted to and approved by Planning Staff (or, as necessary, the ZBA) <u>prior to their execution on the building.</u>	CP	Planning Staff / ISD					
7	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					
Construction Impacts								
8	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					
9	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					
10	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					

11	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
<b>Public Safety</b>				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
14	The building shall be sprinkled			
15	A means of egress from the basement bedroom window must be provided and shown on plans	BP	ISD/Plng	
16	The applicant shall submit an updated parking and landscaping plan to be reviewed and approved by staff prior to the issuance of the building permit and in accordance with the ZBA's direction to reduce the parking area and hardscape and increase the amount of landscaping.	BP	IS.Plng	
<b>Final Sign-Off</b>				
17	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, *Clerk*  
Elaine Severino  
Daniel Evans  
Josh Safdie

Attest, by City Planner: \_\_\_\_\_

Sarah White

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 \_\_\_\_\_

