



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-36
Site: 40 Harvard St
Date of Decision: August 8, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 22, 2018

ZBA DECISION

Applicant / Owner Name: 40 Harvard St Somerville, LLC
Applicant / Owner Address: 57 Mishawum Rd., Woburn, MA 01801
Alderman: Ben Ewen-Campen

Legal Notice: Applicant and Owner, 40 Harvard Street, LLC, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming structure including by finishing the basement. Special Permit for parking under Article 9* of the SZO. RA zone. Ward 3.

* Since the publication of this legal notice, it has been determined that no parking relief is needed for this project.

<u>Zoning District/Ward:</u>	RA Zone. Ward 3.
<u>Zoning Approval Sought:</u>	§4.4.1 and Article 9
<u>Date of Application:</u>	March 15, 2018
<u>Date(s) of Public Hearing:</u>	7/18/18, 8/8/18
<u>Date of Decision:</u>	August 8, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-36 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 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 August 8, 2018, the Zoning Board of Appeals took a vote.



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I. DESCRIPTION:

The Applicant proposes retaining the two-family use of the structure but intends to re-arrange the interior layout and finish a portion of the basement. Finishing the basement will increase the FAR from the already non-conforming .86 to a further non-conforming .97. The property is located in the RA zone where a maximum FAR of .75 is allowed.

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 §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 conforms to the requirements of §4.4.1 and 5.1.4 of the SZO.

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 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."

FAR

Currently, the FAR for this property is non-conforming at .86. The proposal to finish the basement along with other interior reconfigurations will increase the FAR to .97. An FAR of .75 is the maximum allowed in the RA zone. However, under Special Permit, an Applicant can petition to further increase this non-conformity.

With the exception of site improvements and minor window/door re-arrangements, the majority of the proposed changes to this property will occur on the interior. The property is currently a two-family and will remain as such after the completion of this project. The bedroom count on the property will remain the same, leaving for no increase in the parking requirement. Given this, the Board finds that the proposed changes to the property will not be more detrimental to traffic volumes, traffic congestion, on-street parking, adequacy of municipal water supply, or sewer capacity. The neighborhood can expect some uptick in noise and, perhaps, odor, during the construction phase of this project. Beyond that, no increase in these nuisances is anticipated. No additions to the structure are proposed, therefore no additional shading of abutting properties or the public way should be expected. The Board anticipates that, as-



conditioned, the changes to the property will visually improve the property in a manner that is consistent with the neighborhood character.

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 the proposal is consistent with the purpose of the RA zone which is: “[t]o establish and preserve quiet neighborhoods of one- and two-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."*

The proposal will improve the usability of the existing structure and overall provide for an upgrade to the property. As most the changes to the property are interior to the building, the Board does not anticipate a negative impact on the surrounding neighborhood. The Board has conditioned the approval for this project to include the submission of a full landscape plan, removal of bituminous material, and improved exterior finishes/materials on the structure.

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 contribute to SomerVision in that it will provide visual improvements to an existing property.

DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti 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. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is to increase the non-conforming FAR by finishing the basement and conducting interior re-configurations.	BP/CO	ISD/Plng.					
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 15, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 15, 2018	Application submitted to City Clerk's office.
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March 15, 2018	Application submitted to City Clerk's office.							
<p>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								
2	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					
3	This entire property is being overhauled. Therefore, the vinyl siding shall be removed and existing clapboard siding found beneath it shall be retained and re-used (if extant) and in good condition. Otherwise, wood or cementitious siding shall be installed. No vinyl siding, trim, decking, or railing shall be permitted. All materials used shall be submitted to Planning Staff for their review and approval prior to ordering and installation.	BP	ISD/Plng					
4	<u>All grids (muntins) on windows shall be adhered to the exterior of the glass. No between-the-glass-grids shall be permitted.</u>	CO	ISD/Plng					
Site								
5	The Applicant shall provide a professional landscaping plan to Planning Staff for their review and approval prior to the issuance of a building permit.	BP for landscaping plan	ISD/Plng					
	The landscaping plan shall include, at a minimum: removal of any bituminous material, quality landscaping materials, list of materials (plants), number and location of installation. Location and materials for sidewalks and fences shall be provided. No asphalt or cement for hardscaping and no vinyl for fencing. All hardscaping shall be permeable.	CO for installation						
6	The Applicant team will work with Planning Staff on a plan to differentiate the easement area from the driveway at 40 Harvard. Planning Staff will have all final review and approval of this proposal, including materials to be used.	Prior to implementation/CO	ISD/Plng.					
7	Trash and recycling areas shall be placed behind the house and shall be screened from the public view and abutting properties. Screening material shall be presented to Planning Staff for their review and approval prior to installation	BP-review CO-installation and screening	ISD/Plng					
8	AC condensers and related/similar mechanicals shall not be located along the front façade of the structure	CO	ISD/Plng					



9	Utility meters shall not be located on the front façade of the structure.	CO	ISD/Plng	
Construction Impacts				
10	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	
11	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	
12	The name(s) and contact information of all entities working on the site shall be posted in an area easily-visible from the public way for the passing public to see.	During Construction	ISD	
13	The applicant must comply with the “Policy for new 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 Engineering to meet this condition and provide the required fees/mitigation.	BP	Engineering/ISD	
14	All food waste shall be removed from the construction site on a daily basis.	During Construction	ISD	
15	Construction waste shall be removed from the site on a daily basis and/or stored in dumpsters on-site, for which the property permits shall first be granted by the City	During Construction	ISD	
Public Safety				
16	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP	
17	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
18	Grills, barbeques, chimineas, and the like are not permitted on decks or porches Somerville Fire Prevention regulations	CO/perpetual	ISD/Plng	
19	All exterior lighting shall be downcast and shall not shine onto abutting properties or the public way in any fashion.	CO/perpetual	ISD/Plng	
Miscellaneous				
20	If the units in this property are currently rental units being converted to for-sale condo units, the Applicant must first appear before the condo review board to formally convert the units from rental to condos.	BP	ISD/Plng	
Final Sign-Off				
21	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
Anne Brockelman (*Alt.*)

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 _____

