



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

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Case #: ZBA 2018-16
Site: 55-57 Marshall St
Date of Decision: April 18, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 2, 2018

ZBA DECISION

Applicant Name: Daniel Santos
Owner Name: Federico Guerino
Owner Address: 15 Harold Street, Manchester, MA 01944
Alderman: Jesse Clingan

Legal Notice: Applicant, Daniel Santos, and Owner, Federico Guerino, seek special permits under §4.4.1 of the SZO to alter the rear roof line on a non-conforming structure. RB zone. Ward 4.

<u>Zoning District/Ward:</u>	RB Zone. Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	January 29, 2018
<u>Date(s) of Public Hearing:</u>	3/21/18, 4/4/18, 4/18/18
<u>Date of Decision:</u>	April 18, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-16 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, City Hall, 93 Highland Avenue, 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. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



I. PROJECT DESCRIPTION

- 1. **Subject Property:** The subject property is a legally-existing multi-unit residential structure located in the RB district. The 2 ½-story, 5,710 foot building is situated on a 7,475 square-foot lot.
- 2. **Proposal:** The Applicant proposes to alter the rear rooflines of the building by extending the roof surface along the right and left elevations. It is the extension of the roofline along the left elevation that triggers the request for a Special permit
- 3. **Green Building Practices:**

The Application does not address green building practices.
- 4. **Comments:**

Alderman Jesse Clingan is aware of this project.

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 with regard to the interior arrangement of the structure and exterior elevations conforms to the requirements of §4.4.1 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 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 proposed left elevation roofline extension will clean up a currently awkwardly-built rear addition roofline. By extending the roofline, the Applicant will be able to provide further living space to future occupants of the residential unit proposed for this location. The mere extension of



this roofline will have no impact on traffic volumes, traffic congestion, water supply, on-street parking, or sewer capacity.

The Board anticipates that any additional noise or odor from this work will be limited to the construction period. This structure has been under renovation for an extended period of time and this roofline work appears to be coming toward the end of a long construction process. As noted briefly earlier in this report, the roofline extension will be minimally visible from the public way on Marshall Street. The Board finds that this minimal visibility will not produce negative visual effects to the passing public as the proposed changes would be in keeping with the neighborhood character and do not overwhelm the existing structure nor portions thereof.

As indicated earlier, the roofline change will be most visible from left and rear elevation abutters. Should any of these abutters have questions regarding shadowing due to the proposed alterations, the ZBA may elect to have the Applicant team produce a shadow study for consideration at a future ZBA hearing.

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 extension of the roofline is not inconsistent 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:

The Board finds that the proposed extension to the left rear roofline will provide a cleaner roofline than that which currently exists on the structure. The proposed changes will be minimally visible from Marshall Street, if at all. The changes to this rear elevation will be visible by left and rear abutting neighbors.

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, as part of an overall rehabilitation of the property, will help to improve the overall structure that was in need of refurbishment.



DECISION:

Special Permit under SZO §4.4.1

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, and Anne Brockelman, with Josh Safdie and Pooja Phaltankar absent. 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.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is to extend the left rear roofline within the left side yard setback.	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>January 29, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>March 27, 2018</td> <td>Correct elevations submitted to OSPCD by architect.</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	January 29, 2018	Application submitted to City Clerk's office.	March 27, 2018	Correct elevations submitted to OSPCD by architect.
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<p style="color: red;">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	The extended roofline shall be clad in the same shingling as used for the rest of the roof on this structure.	CO	Planning Staff / ISD							
3	Any siding added to the façade of the house created by the roofline extension shall match the siding used on the rest of the property.	BP with recheck at CO	Planning Staff / ISD							
4	Any changes to the design, style, massing, form, elements, and materials of the roof extension shall first 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							
5	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										
6	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							



7	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	
8	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	
9	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD	
10	The Applicant and their development team shall ensure, at all times, that no construction material, debris, construction-related materials or the like shall, at any time, be found on abutting properties. This left elevation work is very close to the left abutting property and under no circumstances shall such material noted above be found on this or other abutting properties.	During Construction	ISD	
Public Safety				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
12	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
13	The building shall be sprinkled	CO	Fire Prevention / ISD	
Final Sign-Off				
14	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 _____

