



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-10
Site: 10 Oak Street
Date of Decision: May 16, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 30, 2018

ZBA DECISION

Owner Name: Rolando Dongo
Owner Address: 10 Oak Street, Somerville, MA 02143
Applicant Name: 10 Oak Street LLC
Applicant Address: 22 McGrath Highway, Somerville, MA 02143
Alderman: J.T. Scott

Legal Notice: Applicant, 10 Oak LLC, and Owner, Rolando Dongo, seek Special Permits under §4.4.1 to upwardly extend the non-conforming right side yard setback, increase the GFA by more than 25% * and parking relief under Article 9 of the SZO. RC zone. Ward 2.

<u>Zoning District/Ward:</u>	RC Zone. Ward 2.
<u>Zoning Approval Sought:</u>	§4.4.1 / 9.13
<u>Date of Application:</u>	March 28, 2018
<u>Date(s) of Public Hearing:</u>	May 16, 2018
<u>Date of Decision:</u>	May 16, 2018
<u>Vote:</u>	5-0

* Since the legal notice was issued, it has been determined that the GFA is not being reduced by more than 25%.

Appeal #ZBA 2018-50 was opened before the Zoning Board of Appeals at the VNA, 259 Lowell Street, Somerville, MA 02143 on May 16, 2018. 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.



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DESCRIPTION:

1. **Subject Property:** The subject property is a 2 ½-story residential structure located in the RC zoning district. This two-unit structure presents approximately 1,728 square feet of living area and rests on a 3,301 square-foot parcel.

2. **Proposal:** The Applicant proposes to significantly alter this property. The proposed alterations are as follows:

- Convert gable roof to Mansard roof
- Increase building height from 23.6 feet to 30.5 feet
- Construct addition to left elevation of house, thereby widening the structure
- Upward extension of the right façade of structure (**Special Permit needed**)
- Increase number of units from 2 to 3
- Parking relief to provide 3 compact (8x16) parking spaces (**Special Permit needed**)
- Remove the bituminous/asphalt driveway and replace with pervious pavers
- Add landscaping to an otherwise paved-over lot

3. **Green Building Practices:**

The application states that the project will meet or exceed the stretch code.

4. **Comments:**

Historic Preservation Commission

Due to the significant demolition of the building required for this project, this structure was reviewed by the Somerville Historic Preservation Commission (HPC) under the demolition delay ordinance. At their regular meeting on April 17, 2018, the HPC determined that the structure was not “historically significant” and therefore was released for demolition. As a point of note, the entire structure will not be razed, only the portions necessary to accomplish the widening of the house and the creation of the Mansard roof.

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 §5.1 of the SZO. This section of the report goes through §5.1 in detail.

1. **Information Supplied:**

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
- Relative to the need for parking relive under Article 9 of the SZO, the Applicant team provided the information regarding existing bedroom count at the ZBA hearing on May 16, 2018.
-



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." Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are non-conforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA..."*

Under Section 4.4.1 of the SZO:

Under the SZO, a property owner/Applicant must petition the Special Permit Granting Authority (SPGA), in this case, the ZBA, to increase existing non-conformities. In the case of 10 Oak Street, Special Permits are needed in order to create an upward extension of the non-conforming right side yard setback.

Currently, at its closest point, the building at 10 Oak Street is 0.4 inches over the property line and onto the abutting parcel to the right. Staff reminded the ZBA that it is not the role of Staff or the ZBA to become involved in property line disputes. To-date (at the writing of the staff report), Staff had not been contacted by any other parties regarding this issue. It is the responsibility of the abutter and the project Applicant/10 Oak Street owner to resolve any property line disputes outside of the zoning relief process.

In general, the Board finds that the upward extension of the right side yard setback will assist the Applicant in achieving additional quality living space for future inhabitants of the building. In the center of the roofline along the right elevation, the Applicant proposes breaking the Mansard roofline by constructing outdoor decks. The inclusion of these decks will help reduce the overall massing in this area and some of the visual impact created by a strong Mansard roof. Staff asked the ZBA to consider if having outdoor living space in an area where a building has already encroached on a property line is negatively impactful to the abutting property.

Under Article 9 of the SZO:

- The parking relief needed for this application is to provide three compact-size parking spaces in lieu of standard parking spaces. A standard parking space is sized at 9x18. A compact-sized parking space is 8 x16.
- By providing three compact parking spaces, the Applicant is presenting a proposal that is consistent with the ZBA's position of approving only one parking space per unit.
- The Board finds that within approximately two-to-three blocks of this site, multiple public transportation (bus) stops are available. Should the ZBA be interested in seeing additional green space opened up on this site in lieu of three parking spaces and their associated hardscape, the ZBA might consider reducing the total number of compact spaces made available on-site.

Unit	Existing BDR	Existing Pkg. Req.	Proposed BDR	Proposed Pkg. Req.
Unit 1	1	1.5	3	2.0
Unit 2	1	1.5	2	1.5
Unit 3	n/a	n/a	2	1.5

Total: 3

Total: 5.0

Formula: New parking requirement - Old parking requirement = # new spaces required*



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10 Oak: $5.0 - 3.0 = 2.0$ spaces of relief needed

* When the result of this calculation is less than 1.0 or a negative number, then no parking relief is required.

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, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.
- According to Section 6.1.3 of the SZO, the purpose of the RC zoning district is "...To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." The proposed three-unit dwelling house is consistent with the purposes of an RC district.

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 Board finds that the surrounding area presents a mix of residential housing forms and density. There are several gable-fronted structures of varying ages and conditions, a Cape Cod-style house built in the latter half of the 20th century, as well as a Mansard structure on the same side of the street. The surrounding area is settled with single, two, three, and multi-family properties. A proposed Mansard with three dwelling units is compatible with the surrounding area.
- The Board finds that the proposed alterations will result in a significant visual improvement to the property. The entirety of this property will be upgraded – both the structure and the grounds – and one additional living unit will be added. This is a street where many of the parcels are in need of de-paving, greening, and building improvements. This project represents the first major effort at such on the street.

5. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

- The proposal does not provide any affordable housing units or payments.

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, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic*



groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.

- The proposal will upgrade an existing property in need of rehabilitation.
- The proposal will add one dwelling unit to the City's housing stock.

III. DECISION

Special Permit under §4.4.1 & Article 9 of the SZO

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the ZBA **CONDITIONALLY APPROVES** of the requested **SPECIAL PERMITS**.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is to add more than 25% of GFA, change the structure from a gable roof to a Mansard roof, provide compact parking spaces and allow for an upward extension of the non-conforming right side yard setback.	BP/CO	ISD/ Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>January 11, 2018</td><td>Initial application submitted to city clerk's office</td></tr></table>				Date (Stamp Date)	Submission	January 11, 2018	Initial application submitted to city clerk's office
	Date (Stamp Date)				Submission			
January 11, 2018	Initial application submitted to city clerk's office							
ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.								



2	The Applicant shall be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans <u>must be submitted to the Engineering Department for review and approval before a building permit will be issued.</u>	BP	Eng/ISD	
3	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. <u>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.</u>	BP	Eng/ISD	
4	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Wiring/ISD	
5	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment	BP	T&P / ISD	
6	The Applicant shall present their demolition plan to ISD for their review and approval prior to the issuance of a building permit.	BP	ISD	
Construction Impacts				
7	The Applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance <u>where it is easily visible to people passing by.</u>	During Construction	ISD	
8	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to <u>7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends or holidays.</u>	During Construction	ISD	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetua l	Plng.	Deed submitted & application formed signed
11	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/ISD	

12	All construction materials and equipment shall 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 Division must be obtained.	During Construction	T&P	
Design				
13	The entire property is being overhauled inside and out, including the grounds. Therefore, the building shall be re-sided in a wood clapboard or cementitious-based material.			
14	The Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction and prior to the issuance of a building permit. Planning Staff shall have final determination and approval over all materials used on the exterior of 51 Cross Street. Lighting styles, location and design, along with roofing/gutter, façade, samples shall also be provided for Staff approval.	CO	ISD/Plng	
15	No vinyl material shall be used for exterior trim, siding, railings, or the like.	CO	ISD/Plng	
16	Any vents or pipes exiting the house shall be either wrapped or painted to match the color of the house portion from which they protrude. <u>Under no circumstances shall any pipes or vents evacuate onto the public way.</u>	CO	ISD/Plng	
17	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
Site				
18	All trash and recycle areas shall be screened with cedar wood lattice, similar screening or year-round plant material. Planning Staff shall approve such screening. No dumpsters shall be permitted on site after the construction period is complete.	CO/Perpetual	ISD/Planning	
19	All asphalt/bituminous material shall be removed from the site and pervious pavers shall be used in its stead.	CO	ISD/Plng	
20	All mechanical equipment shall be screened. A/C condensers shall not be located within a setback and shall not be placed in the front yard of the property. Planning staff shall review and approve all screening material.	CO	ISD/Plng	
Public Safety				
21	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
22	Per City of Somerville regulations, no barbecues, grills, chimineas or the like shall be permitted on decks at any time. These requirements shall be clearly stated in any rental agreements or condo documents.	CO	FP/ISD	
23	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
24	The building shall be sprinkled.	CO	FP	
Final Sign-Off				

25	<u>The Applicant shall contact Planning Staff at least five (5) 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.</u>	Final sign off	ISD/Plng.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
 Richard Rossetti
 Danielle Evans
 Elaine Severino
 Josh Safdie
 Pooja Phaltankar (*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.



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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 _____

