



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-50
Site: 69 Rush Street
Date of Decision: May 16, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 30, 2018

ZBA DECISION

Owner Name: 69 Rush Street, LLC
Owner Address: 85 Speen Street, Suite 202, Framingham, MA 01701
Applicant Name: 69 Rush Street, LLC
Applicant Address: 85 Speen Street, Suite 202, Framingham, MA 01701
Alderman: Matthew McLaughlin

Legal Notice: Applicant and Owner, 69 Rush Street, LLC, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure, including, but not limited to constructing a rear addition to add another dwelling unit, and parking relief under §9.13 of the SZO. RB zone. Ward 1.

<u>Zoning District/Ward:</u>	RRB Zone. Ward 1.
<u>Zoning Approval Sought:</u>	§4.4.1 / Article 9
<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

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.



DESCRIPTION:

1. **Subject Property:** The subject property is a 2 ½-story two-family residential structure located in the RB zoning district on a 4,678 square foot parcel. The subject property presents approximately 2,568 square feet of living space.

2. **Proposal:** The Applicant proposes the following alterations to this property:

- Increase the number of dwelling units from two to three
- Construct a rear addition within the right side yard setback (**Special Permit**)
- Provide two parking spaces (**Special Permit for parking relief**)
- Increase the pervious area
- Increase the landscaping

3. **Green Building Practices:**

The application states that the Stretch Energy Code will be met.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.13):

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 and §9.13 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." 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 69 Rush Street, a Special Permit is needed to create a rear addition within the right side yard setback.

Currently, the right side yard setback is non-conforming at 2.1 feet. The Applicant proposes constructing a rear addition whose right elevation will rest 7'7" from the right property line. Though this is less than the eight foot required side yard setback, the Applicant's proposal improves the non-conformity.



Under Article 9 of the SZO:

Section 9.13 of the SZO requires an Applicant to apply for parking relief when they are unable to meet the required parking for a project site. Relief may be granted so long as the granting of the relief does not cause the following:

- increase in traffic volumes;
- increased traffic congestion or queuing of vehicles;
- change in the type(s) of traffic;
- change in traffic patterns and access to the site;
- reduction in on-street parking;
- unsafe conflict of motor vehicle and pedestrian traffic

In order to determine if parking relief is needed, the following analysis is used. As seen below, in the case of 69 Rush Street, the Applicant needs relief for two (2) parking spaces:

Unit	Existing BDR	Existing Pkg. Req.	Proposed BDR	Proposed Pkg. Req.
Unit 1	2	1.5	2	1.5
Unit 2	2	1.5	2	1.5
Unit 3	n/a	n/a	3	2.0
Total: unknown			Total: 5.0	

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

In the case of 69 Rush Street: **5.0 – 3.0 = 2 new spaces required**

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

Under existing conditions as a two-family structure, this property provides two parking spaces, one per unit. The Applicant proposes retaining those two parking spaces and not adding a space for the new, third unit. It is not uncommon for the ZBA to favorably view a parking proposal that provides one space per dwelling unit. Though the Applicant is proposing less than one per unit for 69 Rush Street, the Board finds that this proposal is in keeping with the ZBA’s position of favoring less parking and more open, landscaped space on a lot. The Board finds that not providing this third parking space is also in keeping with the City’s goals of greening lots and ensuring that more pervious areas are added to residential parcels. This proposal accomplishes both of those goals.

The Board does find, however, that in lieu of some of the pervious pavers proposed in front of the parking space that is located along the left elevation of the main house, the Applicant can convert that area into additional quality landscaping. Further, the Board finds that the parking spaces located along the side of the new addition and directly against the left elevation of the main structure could be covered in pea stone or similar material in order to further increase the quality of the permeably surface provided.

Regarding the specific request for relief from providing two additional parking spaces, the Board finds as follows:

Increase in traffic volumes



With the addition of one more living unit on a parcel, it is reasonable to assume that there will be additional vehicles in the immediate vicinity due to an increase in the number of driving age persons living on-site. That said, just because the number of bedrooms on a property increases, this does not mean that each of those bedrooms will be inhabited by a person of driving age let alone a person of driving age each in possession of their own motor vehicle. Thus, the Board finds that any increase in traffic volumes will be minimal with the addition of one dwelling unit on the property.

During the construction phase of the project, the neighborhood can expect construction-related vehicles to come and go from the property and to park on-site and on the street. Construction periods are limited lengths of time in which any up-tick in traffic volume can be expected. After the construction phase, the Board anticipates that the traffic in the area will return to pre-construction levels.

Increased traffic congestion or queuing of vehicles:

The Board reiterates their comments of directly above. Moreover, even if this site produces one or more additional vehicles, there is no expectation that each of the drivers of those vehicles will leave and return to the property at the same time. Leave and return times are generally staggered throughout prime commuting times.

Change in the type(s) of traffic

The Board does not anticipate a change in the type of vehicular traffic generated in the area due to the increase in the number of dwelling units nor due to any parking relief granted. During the limited time that construction will take place the neighborhood can anticipate the presence of construction-related vehicles in the area. The Board anticipates this type of traffic will fall off after the construction phase is completed.

Change in traffic patterns and access to the site

The site will continue to be accessed as it is currently and with traffic patterns remaining unchanged.

Reduction in on-street parking

The property will continue to provide two parking spaces as it does currently. When any property turns over for sale – whether the sale is for the purposes of rehabbing a property or whether the sale is from one family to another – it is always possible that new owner(s) of a property will have more or fewer vehicles than the previous owner(s). Therefore, it is always possible that there will be a greater or lesser need for on-street parking based on the vehicular habits of any new owners.

The Board recognizes that it is possible that, due to providing only two parking spaces on-site that there will be a need for on-street parking for one or more of the new owners in this building. The Board finds that this area is very well served by public transportation. There are bus stops nearby and the property is within minutes of the Sullivan Square T station. This proximity to public transportation can help to alleviate the dependence on cars for transportation in this area going forward.

Unsafe conflict of motor vehicle and pedestrian traffic

The Board finds that the continued presence of two on-site parking spaces will not create an unsafe situation between vehicles and pedestrian traffic. The Board finds that any future on-street parking in the area will be a scenario that is consistent with current conditions.

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 6.1.2 of the SZO, the purpose of the RB zoning district 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." The proposed three-unit dwelling house is consistent with the purposes of an RB 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 multiple gable-fronted structures of similar vintage as this one. In addition, there is a smattering of Mansards as well as housing forms designed to house multiple units.
- 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.
- The Board acknowledges that the proposed addition is of a more “modern” style that is juxtaposed with the extant building form and design on the property. The proposed addition is set at the rear of the main structure and presents a massing and form that is subservient to it. The Board finds that, taken as a whole with the rest of the work to be performed on this property, the proposed addition will be complimentary to both the property and the surrounding neighborhood.

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. RECOMMENDATION

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 APPROVE** of the requested **SPECIAL PERMITS**.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	<p>Approval is for a rear addition in the right side yard setback and two spaces of parking relief.</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 28, 2018</td> <td>Initial application submitted to city clerk’s office</td> </tr> </tbody> </table> <p>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.</p>	Date (Stamp Date)	Submission	March 28, 2018	Initial application submitted to city clerk’s office	BP/CO	ISD/ PIng.	
Date (Stamp Date)	Submission							
March 28, 2018	Initial application submitted to city clerk’s office							
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./perpetual	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, wheelchair 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 resided in a wood clapboard or cementitious-based material.	CO	ISD/Plng	

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 the property. 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	
21	The area between the parking space (along the left façade of the main structure) and the entry to the rear addition shall be landscaped.	CO	ISD/Plng	
22	The two on-site parking spaces shall be of pea stone or similar material reviewed and approved by Planning Staff.	CO	ISD/Plng	
Public Safety				
23	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
24	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	
25	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
26	The building shall be sprinkled.	CO	FP	
Final Sign-Off				
27	<u>The Applicant shall contact Planning Staff at least five (5) working days in advance of a request for a final inspection</u> 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	ISD/Plng.	

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.

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 _____

