



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2018-92**  
**Site: 23 Rush St**  
**Date of Decision:** August 8, 2018  
**Decision:** *Petition Approved with Conditions*  
**Date Filed with City Clerk:** August 13, 2018

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**ZBA DECISION**

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**Applicant / Owner Name:** Electra Realty Corp.  
**Applicant / Owner Address:** 215 Washington Street, Somerville, MA 02143  
**Alderman:** Matthew McLaughlin

**Legal Notice:** Applicant and Owner, Electra Realty Corporation, seeks a Special Permit to alter a nonconforming structure under SZO §4.4.1 to make façade alterations including creating new window and door openings. RB Zone. Ward 1.

<u>Zoning District/Ward:</u>	RB Zone. Ward 1.
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	June 28, 2018
<u>Date(s) of Public Hearing:</u>	August 8, 2018
<u>Date of Decision:</u>	August 8, 2018
<u>Vote:</u>	5-0

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Appeal #ZBA 2018-92 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.



## I. DESCRIPTION:

The applicant is proposing a new special permit to perform the same alterations that were previously approved in February 2012 (ZBA 2012-03). The alterations that were previously approved are explained below.

The Applicant is proposing to make alterations to multiple façades of the building. Changes to the primary façade along Brook Street would reopen two original window openings that are currently masonry filled and located on either side of the main entry.

The main entry would also be enlarged back to its previous size between the two brick piers. Both the previous door and window openings are clearly visible and the new door and window units would conform to the prior openings. The window openings are 6 feet in width by 6 feet and 8 inches in height. The masonry filled main entry opening is approximately 12 feet wide and 10 feet high and would be replaced with double doors surrounded by transoms on both sides and overhead. A secondary entrance, located on the left side of the façade, will be given a replacement door.

Alterations to the northwestern elevation would reopen four existing masonry filled windows located on the left side of the façade. These openings are also clearly visible and the new units would conform to the current openings which are 4 feet in width by 5 feet and 4 inches in height. Alterations to the southeastern elevation (the Rush Street elevation) would reopen two masonry filled openings and create a secondary egress door on the right side of the elevation. The window openings would support windows that conform to the previous openings, 6 feet and 8 inches in both width and height. The secondary egress would be consistent with the width and height of one main entry door on the Brook Street façade and include both a side and overhead transom. The existing overhead door on this façade would also be retained. These changes would allow for more ventilation and provide natural light into the interior of the space. There are no changes proposed for the rear of the structure.

## 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 §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

### 1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, ground coverage, landscaped area, pervious area, front, rear, left, and right yard setbacks. The proposed alterations will be within the required setbacks since the structure occupies practically the entire lot. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (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.”

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. Although these building alterations will be visible on their three respective elevations, the Applicant essentially proposes to restore the structure back to the original fenestration which will grant more character to the building and better complement the surrounding streetscape. These changes would allow more ventilation and natural light into the structure, creating a better work environment for employees. The addition of more windows on both the Brook and Rush street façades will enhance the streetscape by making it more pedestrian friendly and better suited to the surrounding neighborhood.

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 is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to “promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to provide adequate light and air; and to preserve and increase the amenities of the municipality.”

The purpose of the RB District (6.1.2. RB – Residence Districts) 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.” Although the use of the structure is not consistent with the purpose of an RB District, the building itself and the use are existing nonconformities and the proposed window and door alterations do not appear to be detrimental to the immediate abutters or the surrounding neighborhood.

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 project is compatible with the characteristics of the surrounding area. The Applicant is proposing to reopen masonry filled windows on three façades, enlarge the opening for the main entry and replace the secondary entrance door (both located along Brook Street), and create a new secondary egress door along Rush Street. Although these building alterations will be visible on their three respective elevations, the Applicant essentially proposes to restore the building back to the original fenestration which will grant more character to the structure and better complement the surrounding streetscape. These changes would allow more ventilation and natural light into the structure, creating a better work environment for employees. The addition of more windows on both the Brook and Rush street façades will enhance the streetscape by making it more pedestrian friendly and better suited to the surrounding neighborhood. The



property will remain a single story building with an industrial use and, while the use is not consistent with the surrounding neighborhood, the proposed alterations will help to improve the streetscape.

5. Adverse Environmental Impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No adverse environmental impacts are anticipated from this project. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the proposal. The building will remain a nonconforming single-story industrial structure continuing the same nonconforming use.

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

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

**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 alter a nonconforming structure under SZO §4.4.1 to make façade alterations including creating new window and door openings. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(January 17, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 21, 2011 (January 25, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>(January 25, 2012)</td> <td>ZBA Exterior Opening Modifications (A-1, A-2, and A-3)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(January 17, 2012)	Initial application submitted to the City Clerk's Office	November 21, 2011 (January 25, 2012)	Plot Plan	(January 25, 2012)	ZBA Exterior Opening Modifications (A-1, A-2, and A-3)
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(January 25, 2012)	ZBA Exterior Opening Modifications (A-1, A-2, and A-3)											
Any changes to the approved site plan, elevations, or use that are not <i>de minimis</i> must receive SPGA approval.												
2	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									
3	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									
4	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: \_\_\_\_\_

Alexander C. Mello

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 \_\_\_\_\_

