



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

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Case #: ZBA 2018-17  
Site: 241 School St  
Date of Decision: April 4, 2018  
Decision: *Petition Approved with Conditions*  
Date Filed with City Clerk: April 18, 2018

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CITY CLERK'S OFFICE  
SOMERVILLE, MA

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**ZBA DECISION**

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**Applicant Name:** Elan Sassoon & John Topalis  
**Applicant Address:** 295 Upland Avenue, Newton, MA/ 35 Ballard Lane, Millis, MA  
02054  
**Owner Name:** 241 School Street, LLC  
**Owner Address:** P.O. Box 610312, Newton, MA 02401  
**Alderman:** Jesse Clingan

**Legal Notice:** Applicants John Topalis and Elan Sassoon, and Owner, 241 School Street, LLC, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure, including increasing the FAR\* by more than 25%. Parking relief under Article 9\* of the SZO. RA zone. Ward 4.

Zoning District/Ward: RA Zone. Ward 4  
Zoning Approval Sought: §4.4.1  
Date of Application: March 1, 2018  
Date(s) of Public Hearing: April 4, 2018  
Date of Decision: April 4, 2018  
Vote: 5-0

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Appeal #ZBA 2018-17 was opened before the Zoning Board of Appeals in the Visiting Nurse Association, 3rd Floor Community Room, 259 Lowell Street, 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 presents a legally-existing, non-conforming six-unit residential structure situated on an 8,180 square foot lot in the RA zone.

2. **Proposal:** The Applicant will retain the six-unit residential use of the property. The property will be re-landscaped with several existing, mature plantings retained. The Applicant seeks special permit relief for the following:

### Gross Floor Area (GFA) & Floor Area Ratio (FAR)

The GFA of the structure will increase by just less than 25%. The FAR, in the meantime, will increase by 30%. The increases in GFA and FAR are realized through the construction of a rear addition and finishing the basement.

### Side yard setback

The left façade of the house rests .09 feet from the property line at its shortest point. In the RA zone, a minimum eight-foot setback is required. The Applicant proposes raising the entire roof of the structure by two feet. Raising the roof in this left elevation location, however, creates an upward extension of an existing non-conformity – the left side yard setback. In addition, the Applicant proposes constructing three dormers along the left elevation roofline. The dormers will be constructed within the left side yard setback but will be situated a few feet back from the eave line.

### Exterior modifications

The Applicant proposes raising the height of the roof by 24 inches (two feet). Additional modifications to the roof include new dormers along the left and right elevations and the removal of an oriel on the right elevation facade. The façade will be re-sided and new trim installed. A rear addition will also be added.

### Parking

Each of the existing six units in this building is a one-bedroom unit. The total bedroom count in the building will increase by six, bringing the total number of bedrooms in the structure to 12. The breakdown of unit/bedroom count/parking requirement appears later in this staff report. The Applicant has, however, proposed one parking space per unit which is consistent with the ZBA's position of not wanting to see amenity parking on residential lots.

### 3. **Green Building Practices:**

The application states the following: "Minimize demolition and building material waste. Recycling where possible, use of sustainable/renewable materials with low VOC content."

## 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 §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 and §9.13 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."*

The Board finds that the proposed alterations to and enlargement of this six-unit structure will not be substantially more detrimental to the site or neighborhood than current conditions. The Board finds that the proposed alterations to the structure and the landscaping on the parcel will constitute an improvement to the visual appearance of the site and the usability of the structure.

The Board finds that the overall proposal will not create undue traffic congestion or necessarily increase traffic volume. The number of units in the structure is remaining the same as current, at six. The Applicant's proposal will provide four additional off-street parking spaces than currently exist, should future residents of the property decide to utilize them. Future residents of this property also possess the right to obtain resident and visitor parking permits from the parking Division. Moreover, this property is very close to both Broadway and to Medford Street both of which are well serviced by bus routes at or very near their intersections with School Street.

Gross Floor Area (GFA) & Floor Area Ratio (FAR)

While the GFA of the structure will increase by just under 25%, the FAR will increase by 30% due to finishing the basement, reconfiguration of the interior layout and the construction of a rear addition. Finishing the basement is a reasonable manner in which a property owner may gain additional living space for themselves or future owners/residents. In the case of 241 School Street, only a portion of the basement will be finished. Under this proposal, a playroom and bedroom will be added for Units 1 & 2. The remainder of the basement space will be unfinished and utilized for storage and mechanicals for all six units.

The increase in FAR also occurs through the construction of a rear addition. The inclusion of this rear addition will square off the rear of the house. The process of addition the rear addition will also slightly improve the rear yard setback – an existing rear addition will be removed which is positioned closer to the rear yard setback than where the new rear addition will end. The proposed changes to this property increase the FAR from .45 to .75, the maximum allowed in the RA zone.

Left side yard setback

The left façade of the structure rests .9 feet from the property line at its shortest point. The Applicant proposes an upward extension of this non-conformity by raising the roof by two feet. Despite the increase in roof height, the Applicant will retain the same roof shape throughout. Three individual dormers will be added to the left roofline. Though these dormers will be constructed within the left side yard setback, they are small in nature and are set a few feet back from the eave toward the peak of the roof. The Board finds the proposed dormers to be modest in their massing and

well set back from the eave line. The Board finds that increasing the height of the building by 24 inches is not enough to negatively impact shadowing from this building onto the abutting property to the left.

Exterior modifications

Because this is a non-conforming 6-unit structure in an RA zone, the exterior modifications proposed to this building require a special permit. Under this proposal, in addition to the alterations already discussed, the Applicant will re-side and re-trim the building with wood or cementitious-based materials. New doors and windows will be added and existing windows replaced. The Board has conditioned this report to require material samples to be submitted to and approved by Planning Staff prior to the issuance of a building permit. The Board finds that, as proposed and as conditioned, this project is of an appropriate scale for the existing house/parcel and surrounding neighborhood. The result of this proposal will visually improve both the site and the surrounding neighborhood.

Parking §9.13 of the SZO

The Application states that the parcel currently contains one parking space and that the Applicant proposes a total of five on the site. This addition of four on-site parking spaces (two of which will be sized for parallel parking purposes) will presumably relieve the surrounding streets from having to provide four on-street parking spaces should the new residents of this property choose to park on-site. Based on the formula for determining the number of parking spaces of relief needed for new projects, it has been determined that this proposal does not need parking relief. The explanation for this determination immediately follows:

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	1	1.5	Unit 1	3	2.0
Unit 2	1	1.5	Unit 2	3	2.0
Unit 3	1	1.5	Unit 3	2	1.5
Unit 4	1	1.5	Unit 4	2	1.5
Unit 5	1	1.5	Unit 5	1	1.5
Unit 6	1	1.5	Unit 6	1	1.5

**Total: 9.0**

**Total: 10.0**

Formula:

*new parking requirement – old parking requirement = # of spaces of relief needed\**

10 spaces – 9 spaces = 1.0 spaces of relief

5 parking spaces are to be provided on-site, therefore no parking relief is needed

*\*When this result is a negative number or >1, no parking relief is needed. The result of this formula is then compared against the number of spaces that the applicant proposes to provide on the site. If this number is greater than the number of spaces of relief needed, then no special permit for parking relief is required.*



In addition to the considerations discussed above, the Board does not anticipate that this proposal will increase noises or odors in this neighborhood. Regular construction-related noise can be expected on this site as the project is underway. However, this uptick in noises will be temporary in nature. The Board anticipates that any odors associated with this project will be construction-related and, post-construction, will be in keeping with those typically experienced by residents living in close proximity to each other.

Lastly, impacts on municipal water supply and sewer capacity will be examined by the Engineering. Prior to the issuance of any building permit for this project, the Applicant is required to submit full engineering plans to the Engineering Department for their assessment, feedback and approval or denial.

### **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 subject property is already non-conforming with regard to the number of units allowed in the RA zone. The RA zone only allows one-and-two-family structures. However, since this property is already non-conforming with respect to being a six-unit residential structure in this one-and-two-family zone, the Applicant is allowed to retain this greater density by right.

### **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."*

Earlier in this report Staff discussed the proposed alterations to this parcel with respect to their compatibility with the site and neighborhood. Staff concluded that the proposed alterations will result in an improvement to the built environment and to the condition and appearance of the flora on the property.

### **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 improve the visual appearance of an existing property.

## **Special Permit under §4.4.1**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit and Variance. Elaine Severino seconded the motion. Wherefore 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										
1	Approval is to construct a rear addition, raise the roof height by 24 inches, add left elevation dormers, increase the GFA by more than 25%, parking relief and general exterior modifications	BP/CO	ISD/PIng.											
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 1, 2018</td> <td>Application submitted to City Clerk's office.</td> </tr> <tr> <td>March 28, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>March 29, 2018</td> <td>Certified copy of plot plan submitted to OSPCD</td> </tr> <tr> <td>March 31, 2018</td> <td>Updated landscaping plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 1, 2018	Application submitted to City Clerk's office.	March 28, 2018	Updated plans submitted to OSPCD	March 29, 2018	Certified copy of plot plan submitted to OSPCD	March 31, 2018	Updated landscaping plans submitted to OSPCD
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March 29, 2018	Certified copy of plot plan submitted to OSPCD													
March 31, 2018	Updated landscaping plans submitted to OSPCD													
	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.													
<b>Design</b>														
1	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/PIng											
<b>Construction Impacts</b>														
2	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											
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/ISD											
4	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											
5	Construction shall be limited to M-F 7:30am – 5:00pm. No weekend construction or construction-related work shall occur.	During Construction	ISD											
6	Prior to the issuance of a building permit, the Applicant shall submit full engineering plans to the Engineering Department for their review and approval.	BP	ISD/PIng/Eng.											
<b>Public Safety</b>														

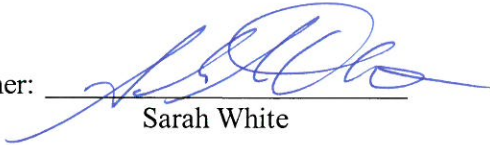
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7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
8	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
9	The building shall be sprinkled			
10	All exterior lighting on the site shall be downcast and shall not cast light onto surrounding properties in any fashion.			
11	In accordance with City of Somerville ordinances, no grills, barbecues, chimineas or the like shall be allowed on decks and porches. These requirements shall be written into any rental agreements or condo documents. Proof of the inclusion of this language shall be shown to Planning Staff prior to the issuance of a CO.	CO/Perpetua I	ISD/PIngF P	
<b>Site</b>				
12	All plantings and their locations along with all hardscaping materials, design and location for driveways, walkways, fencing, etc., shall first be reviewed and approved by Planning Staff prior to the issuance of a building permit.	BP	ISD/PIng	
13	No vents shall exit on the School Street façade of the structure. All venting, pipes, conduits and the like shall be painted the same color as the exterior of the structure from which they protrude.	CO	ISD/PIng	
14	Utility meters shall not be installed on the front façade of the building (School Street façade)	CO	ISD/PIng	
15	All bituminous material shall be removed from the site.	CO	ISD/PIng	
<b>Final Sign-Off</b>				
16	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	PIng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Daniel Evans  
Josh Safdie

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 \_\_\_\_\_

