



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

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Case #: ZBA 2019-114-R1 12/19
Site: 453 Somerville Avenue
Date of Decision: June 10, 2020
Decision: Petition Denied
Date Filed with City Clerk: June 23, 2020

ZBA DECISION

Applicant / Owner Name: Jack Saade

Applicant / Owner Address: P.O. Box 15303, Boston, MA 02215

Legal Notice: Applicant and Owner, Jack Saade, seeks a Special Permit under SZO §7.11.1.c and parking relief under Article 9 to construct a four story mixed use building with five residential units and ground floor retail space. A Variance under SZO §5.5 and §8.6.12 for relief from the required rear yard setback. BA and RB Zone. Ward 2. Advertising conditional upon court decision/order.

Zoning District/Ward: BA and RB, Ward 2

Zoning Approval Sought: SP §7.11.1.c, §8.6.12, §9

Date of Application: March 2, 2020

Date(s) of Public Hearing: March 11, 2020; April 15, 2020; May 6, 2020; June 10, 2020

Date of Decision: June 10, 2020

Vote: 5-0

Appeal #ZBA 2019-114-R1 12/19 was opened before the Zoning Board of Appeals at Somerville City Hall on March 11, 2020, 2019. 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 June 10, 2020, the Zoning Board of Appeals took a vote.

DESCRIPTION: The proposal is a remand of a case that was denied by the ZBA in December 2019. The proposal has changed from the December 2019 denial. The proposal is to demolish the single-story masonry building in the rear of the site and construct a four-story mixed use building with ground floor retail space and five residential units. The proposed building will be constructed within the BA portion of the subject property. Of the parking spaces, three are under the building and two are behind. The building has gotten smaller to negate the need for a rear yard variance. The retail space is 315 square feet.

FINDINGS FOR SPECIAL PERMITS (§7.11.1.c and §9)

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1 of the SZO.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant does meet 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."*

Article 7: Table of Permitted Uses

Section §7.11.1.c of the SZO requires a special permit for a five dwelling unit proposal in the BA district. The Board finds that the unit count could be acceptable but in the current massing, is untenable to the neighborhood.

Article 9: Off-street Parking and Loading

The applicant is seeking parking relief for the number of spaces and space dimensions. The ground floor is intended to be office or retail uses, which most are currently permitted as-of-right less than 2,500 square feet in the BA zoning district.

The parking requirement is 9 spaces, 5 are proposed. The Applicant is seeking a special permit for relief of 4 parking spaces. The spaces proposed are also compact. They are 8'x16'.

SZO §9.13.b allows for sites where the design of a parking lot differs from the provisions of the SZO to apply for a special permit. Relief is being requested from providing the required 9'x18' dimensioned spaces.

In considering a special permit under §9.13 of the SZO "the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1, and upon reaching the findings and determinations set forth in Section 5.1.4". The Board finds that granting the requested Special Permit is consistent with the purposes of SZO §9.1 and will not cause detriment to increased traffic volumes, traffic congestion of queuing of vehicles, changes in the type of traffic, change in traffic patterns and access to the site, reduction in on-street parking, or unsafe conflicts of motor vehicles and pedestrian traffic.

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 encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the BA district, which is, “to establish and preserve business areas bordering main thoroughfares that are attractive to a wide range of uses, including retail business and services, housing, government, professional and medical offices, and places of amusement. While it is anticipated that most users will arrive by motor vehicle, it is intended that the area should be safe for and conducive to pedestrian traffic.”

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."*

Although the applicant and his team had made significant strides in matching the existing design context of the surrounding neighborhood, The Board found that the massing did not match the existing context, in particular the setbacks of the front facade two the two adjacent buildings. The Board expressed frustration over the change of Applicant team whereby they did not go back and listen to the design concerns from previous hearings to address all needed changes. The Board discussed continuing the case to have the Applicant team address these issues but the Applicant requested a denial due to unwillingness to make the project smaller.

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

The Board finds that the project 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.

The Board finds that the project complies with the goals of SomerVision.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Anne Brockelman, Elaine Severino, and Josh Safdie with Drew Kane as alternate. Upon making the above findings, Danielle Evans made a motion to deny the request for the Special Permits. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **DENY** the request.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans, *Clerk*
Anne Brockelman
Elaine Severino
Josh Safdie
Drew Kane, *Alternate*

Attest, by the Administrative Assistant:

Melissa Woods

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 _____