



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-43

Date: June 6, 2018

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 26-28 Upland Road

Applicant Name: Upland Road, LLC
Applicant Address: 80 Monroe Street,
Belmont, MA

Owner Name: Upland Road, LLC
Owner Address: 80 Monroe Street,
Belmont, MA

Alderman: Katjana Ballantyne.

Legal Notice: 26-28 Upland Road (ZBA 2018-43): Applicant and Owner, Upland Road, LLC, seeks Special Permits under §4.4.1 of the SZO to, at a minimum, finish the basement and install window wells within the side yard setback. Parking relief under Article 9 of the SZO is also needed.* RA zone. Ward 7.



Date of Hearing: June 6, 2018 – ZBA

*Since the publication of this legal notice, it has been determined that no parking relief is needed for this project. An explanation for this determination follows in the staff report.

I. PROJECT DESCRIPTION

- 1. Subject Property:** The subject property is a 2-unit residential structure situated on a 3,806 square-foot lot in the RA zone.
- 2. Proposal:** The Applicant proposes finishing the basement and adding two bedrooms to Unit 1. One

of these bedrooms will be located in the basement while the second new bedroom will be located on the first floor. The Applicant proposes increasing the already non-conforming FAR from .83 to 1.06.

3. Green Building Practices: The application states the following: “Low VOC paint; high efficiency gas-fired hot water boiler; programmable thermostats; indirect fired hot water heaters, insulation, energy star windows.”

4. Comments: Alderman Ballantyne has been advised of this project. Alderman Ballantyne expressed concern about the location of the proposed new living room in the basement and the proposed new bedroom on the first floor. Her concern is that the living room will become a fifth bedroom. Because of this, she was not sure if she could support this project. Staff explained to the Alderman that, even if the living room were to become another bedroom in the future, there would still be no need for parking relief and that we often see Applicants putting living room-type space in the basement area of a residential structure.

The Staff Planner communicated the Alderman’s concerns to the Applicant who provided a written comment to the Alderman. The Staff Planner, in turn, forwarded this response to Alderman Ballantyne. This written response from the Applicant has been attached to the end of this staff report.

At the time of the finalizing of this staff report for packet delivery on June 1, 2018, staff has not heard back from Alderman Ballantyne regarding the Applicant’s responses to her concerns.

As an added note, the Applicant is also aware of the limit on having no more than four unrelated individuals living in one residential unit.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §9.13, & §7.11):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in the relevant sections of the SZO. This section of the report goes through those sections in detail.

1. Information Supplied:

Staff finds that the information provided by the Applicants conforms to the requirements of §4.4.1, Article 9 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.”*

Under SZO §4.4.1

Section 4.4.1 states that “[l]awfully existing non-conforming 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 non-conforming 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.”

With the exception of the installation of the window well toward the rear portion of the left elevation of the property, the work requiring special permitting is all being conducted internally. Finishing basements is a ubiquitous way in Somerville for property owners to gain additional meaningful living space within their homes/units.

26-28 Upland Road is already over the maximum FAR allowed for an RA-zoned property. The maximum allowed is .75 and this locus already presents at .83 under existing conditions. The Applicant proposes increasing the FAR to 1.06 through finishing the basement and interior reconfigurations on the first floor.

Staff finds that these largely internal changes will not negatively impact the visual experience of this property from the public way, thus rendering null any concerns about visual effects and negative impacts on neighborhood character. Further, the interior changes are not expected to create conditions that would result in long-term impacts on the neighborhood in terms of odor and noise, nor would these changes create new instances of shading on surrounding properties.

The property is currently a two-unit residential structure and will remain as such after this project. Therefore, the consistency of this two-family density does not foreshadow future issues with traffic congestion, volume, or on-street parking.

Under SZO §9.13

As noted at the beginning of this staff report, since the issuance of the legal notice, it has been determined that no parking relief is needed for this project. The formula for determining this appears directly below:

Unit #	Existing BDR	Parking Req.	Proposed BDR	Parking Req.
#1	4	2.0	4	2.0
#2	2	1.5	4	2.0
Total: 3.5			Total: 4.0	

Formula: *New parking requirement - Old parking requirement = spaces of relief needed**

For 26-28 Upland Road: **4.0 - 3.5 = .5 spaces**

*** When the result of this formula is less than one or a negative number, then no parking relief is needed.**

Therefore, there is no parking relief needed for the proposal at 26-28 Upland Road because the result of the formula is less than 1 space.

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.

Staff finds that the proposed inclusion of a window well for emergency egress from the new basement bedroom, though required by building code, goes to the purpose of promoting the general health and welfare of inhabitants of the City.

4. Purpose of District: *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

Staff finds that the proposed project, as-conditioned, is consistent with the intent of the RA zoning district which is “...to establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

The Applicant is retaining the two-family use of the property which is in keeping with the purposes of the RA district.

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 the City’s affordable housing units.

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 residential unit for future renters or buyers. As the proposed change will increase the bedroom count from two to four in this unit, the unit now has the possibility of being a “family friendly” unit.

III. RECOMMENDATION

Special Permits under §4.4.1, §9.13

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMITS**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the increase in the non-conforming FAR that will result from finishing the basement and reconfiguring the first floor; inclusion of a window well at the rear of the left elevation of the structure.	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 29, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 15, 2018</td> <td>Updated plans submitted to OSPCD</td> </tr> <tr> <td>May 29, 2018</td> <td>Applicant memo received by OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	March 29, 2018	Initial application submitted to the City Clerk's Office	May 15, 2018	Updated plans submitted to OSPCD	May 29, 2018	Applicant memo received by OSPCD
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<p><u>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.</u></p>												
Pre-Construction & Construction Impacts												
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 standards.	CO	DPW									
3	The Applicant shall post the name and phone number of the general contractor, owner, and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	PIng./ISD									
4	The applicant must comply with the: "Policy for new connections to and modifications to existing connections to the municipal sewer and drainage system stormwater management and infiltration/inflow mitigation." The Applicant shall work with Engineering to meet this condition and provide the required fees/mitigation.	BP	PIng/ISD/Highways/Engineering									
5	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	PIng./ISD	Deed submitted & application form signed								

6	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 Department must be obtained.	During Construction	ISD/T&P	
7	<u>Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays.</u>	During Construction	ISD	
8	The Applicant shall ensure that all food waste associated with construction personnel be removed from the premises at the end of each work day.	During Construction	ISD	
9	The Applicant shall, throughout the construction process, ensure that the project site remains as follows: <ul style="list-style-type: none"> - <u>ALL</u> construction-related debris shall be placed in dumpsters or similar at the end of <u>EACH</u> day; - Items removed from the existing building as part of the project process shall be disposed of in dumpsters <u>at the end of each day</u> and/or placed in storage off the premises. These items may include, but are not limited to: mechanicals, pipes, vents, household appliances, toilets, bathtubs, refrigerators, etc. - <u>Under no circumstances</u> shall debris from demolition, construction waste, or the like fall upon, be placed upon or otherwise encroach on abutting properties or the public way. - <u>ALL</u> hazardous material including, but not limited to, asbestos (siding, pipe wrap, insulation, etc.), oil tanks, etc., shall be removed by a licensed, insured, and qualified specialist. 	Pre-Construction & during construction process	ISD/Plng	
10	Deliveries to the construction site shall only occur during 9am and 3pm Monday through Friday. No deliveries to the construction site shall occur on weekends or holidays.	During construction	Traffic & Parking/ISD	
11	Construction and construction-related personnel shall NOT arrive at the job site before 7:30 am. Construction-related vehicles shall not be left to idle on or near the property and site personnel shall be mindful of surrounding property owners by not playing music, engaging in loud conversations, and the like before, during, or after the work day.	During construction	ISD	
12	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	ISD/Plng/Engineering	

13	The Applicant shall contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1 st to April 1 st and there is a list of streets that have additional opening restrictions.	BP	ISD/Engineering	
Design				
14	The Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. There shall be no vinyl used on this property for siding, trim, doors or the like. Windows shall be aluminum clad. Wood or cementitious material shall be used for trim, siding, decking and the like. Windows shall have muntins (grids) applied to the glass. No between-the-glass grids shall be allowed. Windows shall not be tinted nor shall they convey any reflective or mirrored quality.	BP	Plng/Zoning Review Planner	
Site				
15	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well-kept and in good and safe working order.	Perpetual	ISD	
16	The Applicant shall present a landscaping proposal for the front yard to Planning Staff for their review and approval. All landscaping materials screening materials and materials used for parking/driveway area shall first be reviewed and approved by Planning Staff prior to their installation and again prior to final sign-off.	CO	Plng/ISD	
17	Garbage and recycling containers shall be stored out-of-view of the public way. All such containers and container areas shall be screened with either evergreen plantings (no arborvitae) or wood screening. Locations for containers shall be indicated on the final plan set submitted to ISD for building permits. Screening material shall be reviewed and approved by Planning Staff prior to installation.	Screening material: BP Installation of container site and screening: CO	Plng/ISD	
18	All materials used for any hardscaping (walkways, parking areas, landscaping walls, and similar) shall first be presented to Planning Staff for their review and approval prior to installation.	CO	Plng/ISD	
Miscellaneous				

19	Electrical conduits on the exterior of buildings shall be painted to match the color of the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng/ISD	
20	Exhaust/venting pipes protruding from the roof shall be wrapped or painted to match the color of the shingling.	CO	Plng/ISD	
21	There shall be no vents or exterior pipes located on the front façade of the building. All vents and exterior pipes shall be painted or wrapped to match the color of the structure from which they protrude.	CO	Plng/ISD	
Public Safety				
22	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
23	All lighting shall be downcast and shall not spill onto the public way or onto neighboring properties in any fashion.	CO	ISD	
24	The Applicant shall maintain a 20-foot drive aisle between the garage and the rear egress stairs of the residential dwelling.	CO	Plng/ISD	
25	Per City of Somerville fire prevention regulations, grills, barbeques, chimineas or similar shall not be used or stored on porches or decks. The Applicant shall write such specifications into any condo docs and/or rental agreements. The Applicant shall provide the City proof of such inclusion prior to the receipt of a Certificate of Occupancy	CO	Plng/ISD	
Final Sign-Off				
26	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.	

LEABMAN REAL ESTATE SERVICES LLC

LEABMAN DESIGN & CONSTRUCTION

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EMAIL: mleabman@rcn.com

May 28, 2018

Mrs. Sarah White
City Planner/ Preservation Planner
City of Somerville
83 Highland Avenue
Somerville, MA 02143

RE: Special Permit Application for 26 Upland Road

Dear Ms. White:

Please understand that my client, Upland Road, LLC, has neither the intention nor the desire to create a fifth bedroom as any part of this or any future application. They are fully aware of and intend to comply with the zoning ordinance which limits occupancy in an apartment to no more than four unrelated parties.

This renovation would result in two legitimate four bedroom rental units, each with its own kitchen, living room, dining room/area, two full bathrooms and washer and dryer. Again, there will be no additional fifth bedroom. The proposed design allows for a better distribution and quality of common space and better access to the laundry facilities than placing both additional bedrooms in the basement.

My client has made a commitment to improving this property rather turning a quick profit by selling it off as a condominium or maximizing cash flow by maintaining substandard apartment conditions. My client has spent significant money improving the house over the years including, but not limited to:


- Rebuilding of both the front and back porches;
- Upgrading the smoke and CO alarm detection system;
- Upgrading the electrical services to 200Amps with new circuit breakers and improved wiring;
- Installing energy efficient central air systems throughout the house; and
- Completely renovating the second floor bathroom

May 28, 2018

My client's intention, in performing the work that it a) has already done; b) is proposing to do currently; and c) is planning to do going forward, is to continue to provide safe, quality housing in Somerville, striving to improve the living environment of the surrounding neighborhood.

Please let us know whether you and the Alderman who expressed concerns would like to visit the apartment or discuss the plans so that we could hopefully resolve any and all of her concerns. My client or I would be happy to set that up.

Thank you for your time and attention.



Michael A. Leabman, Manager,
as authorized agent for Upland Road, LLC