



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

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Case #: ZBA 2015-78
Site: 35 Moreland Street
Date of Decision: November 4, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 13, 2015

ZBA DECISION

Applicant Name:	Kevin P. Slattery & Marie Mullarkey
Applicant Address:	21 Beacon Street, #4G, Boston, MA 02108
Property Owner Name:	Kevin P. Slattery & Marie Mullarkey
Property Owner Address:	21 Beacon Street, #4G, Boston, MA 02108
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicants and owners of 35 Moreland Street, Kevin Slattery & Marie Mullarkey, seek a Special Permit per SZO §4.4.1 to alter a non-conforming structure from a single family to a 3-family. Applicants seek a Variance for parking relief per SZO §9.5.1.a*. RB zone. Ward 4. *After further review it was determined that the variance is not required.
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<u>Zoning District/Ward:</u>	
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.5.1.a
<u>Date of Application:</u>	September 15, 2015
<u>Date(s) of Public Hearing:</u>	10/21 & 11/4/15
<u>Date of Decision:</u>	November 4, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-78 was opened before the Zoning Board of Appeals at Somerville City Hall on October 21, 2015. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to substantially demolish an existing single-family structure and replace it with new, 3-family building. Five parking spaces and two bicycle spaces are proposed for the replacement building.

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 §4.4.1 and §9.5.1.a. of the SZO. This section of the report goes through §4.4.1 and §9.5.1.a. in detail.

1. **Information Supplied:**

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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."***Regarding §4.4.1 of the SZO:**

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

- The existing structure is currently non-conforming with respect to the left side yard setback. Because the existing structure is to be demolished, the Applicants must re-use a portion of the non-conforming section of the building in order to be able to build the 3-family structure. The required side yard setbacks in the RB district with conforming frontage (min. 50 feet) is 10 feet. This property has a 6' 3 ¼ " left side yard setback, which triggers the Special Permit.
- In considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed to this property would not be substantially more detrimental to the neighborhood than those contained within the existing structure. The RB zone allows for 3-family use and this type of building is found throughout the surrounding neighborhood.
- In order for the property owner to build on this parcel after the teardown of the existing single-family structure, a portion of the existing non-conforming nature of the original structure must be utilized in the replacement building. In the case of 35 Moreland, this existing non-conformity is found in the left side yard setback. A portion of the existing foundation wall found within this setback must be re-used during the construction of the new 3-family building.

Regarding §9.5.1.a. of the SZO:

- The existing property is nonconforming to parking requirements because it has a single driveway for a house with two bedrooms. The SZO states that when the floor area of a structure that has nonconforming parking is expanded, the parking required by the new floor area shall be provided. On the other hand, since the old and new parking requirement is the same for one of the units, no additional parking is required for that unit. The addition of two

dwelling units on the site requires 4 additional parking spaces and 4 additional parking spaces will be provided for a total of 5.

- The number of dedicated bicycle spaces will increase from none to two. The location of this structure also allows for increased use of public transportation as it is situated within quick walking distance two three bus route stops (the 101, 89, and 93 specifically). The inclusion of 5 parking spaces instead of 6 will be mitigated by both bicycle spaces and easy public transit access.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the 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 surrounding neighborhood is a mix of residential uses including 3-family conversions, 2-family and 2-family conversions. The surrounding neighborhood contains numerous structures of 2 ½, 2 ¾ and 3 stories with similar massing.
- Though the left and right abutting 2.3 story residences will now be neighbored by a taller, 3-family structure, neither this use nor this size and massing of a structure is inconsistent with the RB zone in general nor with the immediate neighborhood specifically. The RB zone allows for 3-family use and this type of building is found throughout the surrounding neighborhood.
- In addition, the proposed landscaping plan includes multiple features that will further "green" the neighborhood with the inclusion of trees and numerous shrubs and bushes. The recycling and trash area will be screened both by wood board fencing as well as shrubbery. Pervious pavers will be used for the driveway and front and side walkways allowing for water to percolate naturally in these areas.

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

- The existing unit is not restricted as an affordable unit and even without the expansion of the building the owner could increase the cost of the unit. The proposal will increase the supply of housing by two units. On a larger scale increasing supply to meet demand will decrease the cost of housing in the City.

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 areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.

<u><i>SomerVision Summary</i></u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	3
<i>Parking Spaces:</i>	1	3



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. 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 alter a non-conforming single-family structure to a 3-family structure. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 15, 2015</td><td>Application submitted to Planning Office. (Architectural plans to be used are dated 9/9/2015 and Landscaping Plans to be used are dated August 6, 2015)</td></tr></table>				Date (Stamp Date)	Submission	September 15, 2015	Application submitted to Planning Office. (Architectural plans to be used are dated 9/9/2015 and Landscaping Plans to be used are dated August 6, 2015)
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Any changes to the approved plan that are not <i>de minimis</i> must receive SPGA approval.								
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP					
3	Any changes to the plans that affect the exterior of the structure in any way shall be subject to the review of Planning/Preservation Staff and may potentially require a change to and re-recording of the Memorandum of Agreement (MOA) with the Middlesex County Registry of Deeds.	CO	Plng.					
Final Sign-Off								
3	The Applicant shall contact Planning Staff at least five (5) 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*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

