



**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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**Case #: ZBA 2016-115**  
**Site: 78 Bonair Street**  
**Date of Decision: November 16, 2016**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: November 30, 2016**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Dipesh Nepal
<b>Applicant Address:</b>	78 Bonair Street, Somerville, MA 02145
<b>Property Owner Name:</b>	Dipesh Nepal
<b>Property Owner Address:</b>	78 Bonair Street, Somerville, MA 02145
<b>Agent Name:</b>	N/A

<u>Legal Notice:</u>	Applicant and owner, Dipesh Nepal, seeks to add a second story pursuant to SZO §4.4.1 and a by-right second dwelling unit. Parking relief is sought for one space under SZO §9.13. RB zone Ward 1.*
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<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	
<u>Date of Application:</u>	September 15, 2016
<u>Date(s) of Public Hearing:</u>	11/2 & 11/16/16
<u>Date of Decision:</u>	November 16, 2016
<u>Vote:</u>	5-0

\*NOTE after legal adds were run it was determined the 4.4.1 portion no longer applies to this project.

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Appeal #ZBA 2016-115 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on November 2, 2016. Notice of the Public Hearing was given to persons affected and was published and posted, all as



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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.

### **DESCRIPTION:**

The applicant proposes to add a second story and a by right second unit to the structure and square off the front of the house with an existing bay window. Lot permeability and landscaping will be maintained and improved.

### **FINDINGS FOR SPECIAL PERMIT (SZO §9.13):**

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.

Detailed plans and an instrument survey of the property were provided by the applicant and were used to determine the zoning implications of the proposal.

#### **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."*

*Nature of Application: list applicable section of the zoning ordinance.*

The structure is currently nonconforming with respect to lot area and parking arrangements- current parking is only provided in tandem for the property. The proposed project will conform to lot area per dwelling unit, FAR, height and setbacks, but will require parking relief.

#### **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 The purposes of the Ordinance are 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; and to preserve and increase the amenities of the municipality.

#### **6.1.2. RB - Residence Districts.**

Purpose. 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.



The proposed use and bulk are in harmony with the RB intent as it will be conforming to RB uses and dimensional requirements.

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 comprised of 1, 2, and 3 family homes ranging from 2-3 stories in height with varying types of parking arrangements. The proposed project creates a 2.5 story home which will contextually fit into the neighborhood in terms of height, bulk, and use.*

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 notable impacts*

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

*Parking calculation is as follows:*

***Current requirement*** 1 unit with 3 bedrooms requiring 2 spaces -3 provided in tandem

***Proposed requirement*** 2 units with total 6 bedrooms requiring 4 spaces- 3 provided in tandem

***Increase in requirement is 2***

*Per §SZO 9.4.1.2d.2 :*

*If the new use is calculated to require two (2) or more additional parking spaces or one (1) or more loading bays than the existing (or previous) use, then fifty percent (50%) of this additional requirement shall be provided, but in no case less than one (1) parking space*

*One extra space is required where there is none and thus relief is needed.*

6. Fast food establishments: *In special permit applications for fast-order, take-out or automobile oriented food service establishments, there shall be establishment of a need for such a facility in the neighborhood or in the City, and impacts on traffic circulation, parking and visual, physical, or historical characteristics of the particular location shall not be detrimental.*

*NA*

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

8. 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.*



<i><u>SomerVision Summary</u></i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	2
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	2	2
<i>Publicly Accessible Open Space:</i>	0	0

9. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

NA



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, Josh Safdie with Anne Brockelman and Pooja Phaltankar absent. 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								
	<p>Approval is for the 2<sup>nd</sup> story addition and parking relief. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>9/15/16</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>-</td><td>Modified plans submitted to OSPCD</td></tr><tr><td>-</td><td>Modified plans submitted to OSPCD</td></tr></table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	9/15/16	Initial application submitted to the City Clerk's Office	-	Modified plans submitted to OSPCD	-	Modified plans submitted to OSPCD	BP/CO	ISD/Plng.	
Date (Stamp Date)	Submission											
9/15/16	Initial application submitted to the City Clerk's Office											
-	Modified plans submitted to OSPCD											
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1	Applicant shall submit a developed landscape plan prior to permitting	BP	Plng									
2	Final materials shall but submitted for staff review and approval prior to permitting	CO	Plng									
3	Cars shall not be parked between the exterior front wall of the house and the front lot line	CO/Perpetual	Plng									
4	A minimum of half of the driveway shall be permeable pavers	CO	Plng									
5	One Tree shall be planted in front of the house.	CO	Plng									
Final Sign-Off												
6	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*  
Danielle Evans  
Elaine Severino  
Josh Safdie

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Dawn M. PereiraCopies 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 \_\_\_\_\_

