



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-25

Date: January 18, 2017 February 1, 2017
APRIL 19, 2017

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 21 Cherry Street

Applicant Name: Mouhab Rizkallah / Lacourt
Foundation, LLC

Applicant Address: 30 College Ave., Somerville,
MA 02144

Owner Name: Mouhab Rizkallah / Lacourt
Foundation, LLC

Owner Address: 30 College Ave., Somerville, MA
02144

Alderman: Mark Niedergang



Legal Notice: Applicant and Owner, Mouhab Rizkallah and Lacourt Foundation, LLC, respectively, seek a Special Permit per SZO §4.4.1 to substantially alter a non-conforming 6-unit structure on an undersized lot. The applicant also seeks parking relief under SZO §9.1.3.* RB Zone. Ward 5

Dates of Public Hearing: Zoning Board of Appeals – January 18, 2017

*After this ad was published, a more thorough review has determined that the proposal does not require any relief for parking. However, under the Special Permit process, the ZBA can, if it so chooses, limit or condition the project in order to address any parking issues that they feel exist under the proposal.

This staff report has been updated to correct previous errors. Updated portions of this staff report have been **highlighted in yellow**. Portions which no longer apply ~~have been struck~~.

I. PROJECT DESCRIPTION

1. **Subject Property:** The subject property is a non-conforming, legally-existing 6-unit building in a zone where one-and two-family residential structures are allowed. This 6-unit use may continue. The 3,057 square foot structure dates to the 19th-century, is wood-framed, and presents a gable front to the street. Several decades ago, a two-car garage was built into the slope in front of the house. The area above the garage is used as a large deck. The lot is 4,519 square feet and there are two legal parking spaces in the garage.
2. **Proposal:** The Applicant proposes to alter the property by changing the roofline, and style, adding height, a rear addition, massing to the right rear elevation and extending the front façade of the house in a step-back fashion over the existing garage. Decks will be added to each of the front elevations and decks/egress ways are proposed along the right elevation of the property. The Applicant proposes to retain the existing parking currently extant at the front of the property.
3. **Green Building Practices:**

None reported with this application
4. **Comments:**

Ward Alderman: Mark Niedergang has been involved with the neighborhood and the Applicant since the outset of this proposal (approximately one year ago) and has worked with staff to host three meetings with neighbors to review multiple designs for this building.
5. **A Note from Staff:**

During the past year, the applicant and staff and Aldermen have met with neighbors on three occasions. Staff has also received feedback from the neighborhood to the many iterations of this plan. Neighbors raised concerns about building height, shadowing of neighboring properties, number of units, and parking, among other items. Staff is of the belief that there is a reasonable renovation to be had on this site that would meet zoning findings and permit these units to be upgraded. Nonetheless, despite extensive efforts from all parties involved, there has not been any consensus on what such a reasonable renovation might be. The last submitted plan is closer to a reasonable project than the original submittals. Staff has, therefore, used this latest version, and is recommending that the proposal be conditioned to address a few remaining issues that staff believe will make the project consistent with zoning findings. These issues are addressed in conditions #13 and #14.

Update:

Per the ZBA's request members of ISD and of the Planning Division performed a site visit at 21 Cherry Street to determine the layout, bedroom count, and unit types within the building. ISD determined that the all were as represented by the Applicant in their existing conditions submittal.

Per the request of the ZBA at their February 1, 2017, meeting, the abutters and the Applicant conducted a neighborhood meeting in an effort to come to a mutually workable solution regarding

the proposed project. On the evening of Tuesday, April 4, 2017, Staff, Alderman Niedergang, abutter representatives and the Applicant met for approximately four hours at City Hall discussing specific project issues. The concerns and potential solutions for these issues are noted in the images that immediately follow this update. At this time, the Applicant has decided to proceed in front of the ZBA with the Mansard-style plans that were before the Board in February.

21 CHERRY STREET DEVELOPMENT CONCERNS		
POTENTIAL IMPACT	As Proposed Complies w/ Zoning?	AVAILABLE SOLUTION
1 HARD TO FIND ON-STREET PARKING: → CHERRY ST IS A PARKING LOT FOR RED WINE COMPANIES.	<input checked="" type="checkbox"/> <input type="checkbox"/>	- IF > 2 SPACES NEEDED, DEVELOPER OFFER ALTERNATE OFF-ROUTE PARKING.
2 SHADOW CONCERNS AT → 22-25-25A COURTYARD & DRIVEWAY → 22 FRONT → SIDEWALK	<input checked="" type="checkbox"/> <input type="checkbox"/>	- INVAGINATION AREA IN MIDDLE OF LEFT 3 RD FLOOR.
3 FRONT MASSING → LACK OF VISUAL APPEAL.	<input checked="" type="checkbox"/> <input type="checkbox"/>	- PERHAPS TERRACE BACK SIMILAR TO SHED DOWNER FRONT.
4 LEFT REAR MASSING: →	<input checked="" type="checkbox"/> <input type="checkbox"/>	- PERHAPS MIDDLE INVAGINATION IS ENOUGH LEFT SIDE REDUCTION - PERHAPS 2 INVAG. LEFT REAR LEFT MIDDLE
5 REAR ADDITION MASSING.	<input checked="" type="checkbox"/> <input type="checkbox"/>	- PERHAPS SHIFT RIGHT.

21 CHERRY STREET DEVELOPMENT CONCERNS		
POTENTIAL IMPACT	As Proposed Complies w/ Zoning?	AVAILABLE SOLUTION
1 PERMEABILITY → ADDITION IN REAR → PUBLIC → REDUCED WALKS.	<input checked="" type="checkbox"/> <input type="checkbox"/>	- BY DESIGN REQUESTED, PERM IS IMPROVING. - CONDITION THAT SUBMITTER WILL REVIEW DESIGN ADEQUACY.
2 RIGHT SIDE POSSIBLE TOO CLOSE TO NEIGHBOR (PRIVACY CONCERN)	<input checked="" type="checkbox"/> <input type="checkbox"/>	- RIGHT SIDE ELEVATION NOT COMMENSABLE BY PRESENT NEIGHBORS - DEFER TO OWNER/ARCH - PERHAPS PORCH BECOMES UTILITY SPACE WITH NO WINDOWS.
3 LEFT-FRONT TREE VULNERABILITY	<input checked="" type="checkbox"/> <input type="checkbox"/>	- CONSULT/RETAIN ARBORIST TO MITIGATE TREE DAMAGE.
4	<input checked="" type="checkbox"/> <input type="checkbox"/>	
5	<input checked="" type="checkbox"/> <input type="checkbox"/>	

II. 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 §5.1 of the SZO. This section of the report goes through §5.1 in detail.

1. **Information Supplied:**

- Staff 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."*

- The existing structure is non-conforming with regard to lot area, lot area per dwelling unit (d.u.), left yard setback, right yard setback, front yard setback, and number of residential units. The property is conforming with regard to FAR (at .68 in a zone where 1.0 is allowed) and building height. Under the proposed plan both of these elements will remain conforming. As there will be no change to the number of dwelling units, the lot area per d.u. ratio will remain the same.
- The existing structure is non-conforming with regard to parking, but the proposed plan does not increase that non-conformity.

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are non-conforming 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."

Under the proposal, the entirety of the structure running along the left elevation would experience an upward extension of the existing dimensional non-conformities. In some locations, the setback is .79 from the lot line while in others it ranges from approximately a foot-and-a-half to just more than three feet, depending on the location and the protruding building elements.

Given that this structure is less than 3 feet from the lot line in some places ,no new, operable windows can installed. The Applicant proposes blind windows. Inoperable, fire-rated windows may also be used as long as they meet the Inspection Services Division's (ISD) requirements.

The Applicant proposes to extend the left side non-conformity by constructing a modest one-story addition within the setback. This addition will be stepped in from the edge of the existing structure in order to visually reduce the massing along that portion of the property line.

The Applicant proposes a 3-level addition at the back portion of the structure along the right elevation. This will bring the massing of this portion of the structure at 4.68 feet

from the right light line. In addition, the Applicant proposes first, second and third floor open porches that will also serve as egress for upper floor building residents.

All of these are permitted with a special permit and relevant findings, per Section 4.4.1.

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.

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 mixture of one-, two-, three-, and multi-family housing as well as a school at the bottom of the street where Cherry intersects with Elm. The residential properties on the street range from triple-deckers, gable-fronted, flat-roofed, gambrel-roofed, some with Classical Revival elements and others Italianate, while others present no discernable style.
- The existing structure, despite its non-conformities, is actually smaller in size and form than many other structures in the neighborhood. The front garage is an oddity, and the use as six small units is unique. But, the structure could benefit from upgrades, and it is not unreasonable that additions to this structure can be compatible with the neighborhood.
- The project proposes a Mansard-style roof. While this style is not present on Cherry Street, this style abounds throughout the City. Compared to nearby full-height triple-deckers, this is a less-imposing roof line.
- The proposal has impacts created by its front and right side elevations that can be adequately addressed with adjustments in the location of building bulk. These are addressed in conditions proposed by staff.

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, but upgrades six market rate units 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 proposal contributes to SomerVision in that it preserves and upgrades 6 units of housing in the City.

A note on parking for this site. As noted at the beginning of the report, since the publication of the legal notice, it has since been determined that there is no parking relief needed for this project. The calculations to determine this have been updated for the April 19, 2017, meeting as follows:

Item #	Existing Unit	Proposed Unit	Existing Parking Req'd	Proposed Parking Req'd
1	Studio	Studio	1.0	1.0
2	3 Bdr	1 Bdr	2.0	1.5
3	1 Bdr	1 Bdr	1.5	1.5
4	1 Bdr	2 Bdr	1.5	1.5
5	1 Bdr	2 Bdr	1.5	1.5
6	2 Bdr	2 Bdr	1.5	1.5
			+ 1.0 visitor space for every 6 units	+ 1.0 visitor space for every 6 units
			Total Existing Parking Req'd: 10.0	Total Proposed Parking Req'd: 9.5
			Total Existing Parking Provided: 2.0	Total Proposed Parking Provided: 2.0
Proposal results in reduction of .5 spaces				

Parking Calculation
<p>(New Parking Req. - Old Parking Req.) x .5 = new spaces required*</p> <p>10.0 - 9.5 = .5</p> <p>.5 x .5 = .25</p> <p>* < 1 and negative numbers do not require parking relief</p>

III. RECOMMENDATION

Special Permit under §4.4.1

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 PERMIT**.

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 to alter a legally-existing, non-conforming 6-unit in the RB zone.	BP/CO	ISD/ Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>February 2016</td><td>Initial application submitted to city clerk's office</td></tr><tr><td>December, 2016</td><td>Final proposal submitted to OSPCD</td></tr><tr><td>March, 2017</td><td>Updated renderings submitted OSPCD.</td></tr></table>				Date (Stamp Date)	Submission	February 2016	Initial application submitted to city clerk's office	December, 2016	Final proposal submitted to OSPCD	March, 2017	Updated renderings submitted OSPCD.
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March, 2017	Updated renderings submitted OSPCD.											
ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.												
2	The Applicant shall be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans <u>must be submitted to the Engineering Department for review and approval before a building permit will be issued.</u>	BP	Eng/ISD									
3	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy. This plan shall be reviewed and approved by the Engineering Department prior to the issuance of a building permit.	BP	Eng/ISD									

4	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. <u>There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.</u>	BP	Eng/ISD	
5	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Wiring/ISD	
6	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan will include delivery windows for construction equipment	BP	T&P / ISD	
Construction Impacts				
7	The applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	ISD	
8	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends.	During Construction	ISD	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetua l	Plng.	Deed submitted & application formed signed
11	The Applicant shall, at their 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/ISD	
12	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 Division must be obtained.	During Construction	T&P	
Design				
13	The applicant shall reduce the bulk of the first and second floor above the garage on the front of the structure. This shall be accomplished by moving the front wall of the first floor back 8 feet and the front wall of the second floor back 8 feet. Decks may be placed over the previous floor for the benefit of the units above.	CO	ISD/Plng	

14	On the right rear elevations of the full height portion of the building, in the area between the furthest second floor porch and the one story addition, the applicant shall redesign this area to be 5 feet further away from the side lot line. The proposed rear addition shall be eliminated from the plan set and shall not be constructed.	CO	ISD/PIng	
15	The rear elevation shall incorporate a second dormer window in the Mansard roof to provide visual balance.	CO	ISD/PIng	
16	The Applicant shall provide material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. Planning Staff shall have final determination and approval over all materials used on the exterior of 104 Beacon 21 Cherry Street. Lighting styles, location and design along with roofing/gutter samples shall also be provided for Staff approval.	BP	PIng.	
17	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
18	The Applicant shall construct and maintain a solid 6 foot wood privacy fence along the left and right elevations of the property.	CO/Perpetual	ISD/PIng	
19	The structure shall be clad in wood clapboarding or a cementitious material first reviewed and approved by Planning Staff prior to installation. Vinyl siding shall not be permitted on this structure.	CO/Perpetual	ISD/PIng	
20	All trim, decking, and the like shall be of wood or a composite material first reviewed and approved by Planning Staff prior to installation.	CO/Perpetual	ISD/PIng	
21	Any ZBA approval shall depend upon the receipt of a waiver from the Massachusetts Architectural Access Board (MAAB) that relieves the applicant from making the property handicap accessible. No building permits shall be released unless proof of this waiver is received and verified by both the Planning Office and ISD. Any ZBA approval shall depend upon fulfilling any requirements of the MAAB.	BP	ISD/PIng	
22	All windows shall be two-over-two with a dark sash, dark spacers and dark grids (mullions). Grids shall be applied to the exterior of the glass. No between-glass grids shall be allowed. Windows shall not present a mirrored or reflective quality in any way and shall not be tinted. Windows are close to the lot line will meet building code requirements by being either blind windows – designed to appear as windows – or being fire rated.	CO/Perpetual	ISD/PIng	
23	The Mansard roof shall be constructed so as to present correct historical proportions to this roof shape. The slope of the roof, and its materials, shall be subject to staff review and approval. The sides of the Mansard roof shall present historically-appropriate proportions and curvature.	CO	ISD/PIng	
24	The building shall be maintained with no more than 6 units and no more bedrooms than indicated on the plans.	Perpetual	ISD	
Site				
25	Pervious pavers shall be used for the driveway. Asphalt shall not be allowed on this site.	CO	ISD/PIng	

26	Since the entire property is being overhauled, a full landscaping plan must be submitted to Planning Staff for their review and approval prior to installation of plantings and hardscape.	CO	ISD/Plng	
27	All mechanical equipment shall be screened with evergreen vegetation (no arborvitae). Planning Staff shall approve vegetative screening prior to installation.	CO/Perpetual	ISD/Planning	
28	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. No dumpsters shall be permitted on site (after the construction period is complete).	CO/Perpetual	ISD/Planning	
29	No patio shall be installed in the rear yard.	CO/Perpetual	ISD	
Public Safety				
30	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
31	The building shall be sprinkled/fully suppressed.	CO	FP/ISD	
32	As per Somerville regulations, no grills or similar cooking/heating apparatus shall be permitted on decks. Condo docs or rental agreements shall state as such.	Perpetual	ISD/FP	
33	All lighting on the property shall be downcast and shall not cast/spill onto abutting or nearby properties in any way.	CO/Perpetual	ISD/Fire Prevention	
34	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
Final Sign-Off				
35	<u>The Applicant shall contact Planning Staff at least five (5) working days in advance of a request for a final inspection</u> 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	ISD/Plng.	