



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

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Case #: ZBA 2016-34
Site: 23 Cleveland Street
Date of Decision: April 20, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 2, 2016

ZBA DECISION

Applicant Name:	23 Cleveland Street, LLC
Applicant Address:	32 St. James Avenue, Somerville, MA 02144
Property Owner Name:	23 Cleveland Street, LLC
Property Owner Address:	32 St. James Avenue, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant and Owner, 23 Cleveland Street, LLC, seeks a Special Permit per SZO §4.4.1 to substantially alter an existing, non-conforming single-family structure to construct a two-family residence. Applicant also seeks a Special Permit per SZO §9.13 for relief from parking space dimensions.
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<u>Zoning District/Ward:</u>	RB zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.13
<u>Date of Application:</u>	March 16, 2016
<u>Date(s) of Public Hearing:</u>	April 6, 2016
<u>Date of Decision:</u>	April 6, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2016-34 was opened before the Zoning Board of Appeals at Somerville City Hall on April 6, 2016. 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.



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DESCRIPTION:

The Applicant proposes to demolish the existing structure and replace it with a two-family residence. The Applicant will construct the new residences by extending an existing non-conformity, in this case the front yard setback. The large trees on the rear of the property will be retained and the remainder of the parcel will be re-landscaped. The 2-car garage will be retained but will be refurbished. There will be two covered parking spaces provided, one dedicated to each of the two units. The Applicant seeks relief for two additional parking spaces as four total spaces need to be provided.

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 of the SZO. This section of the report goes through §4.4.1 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."*

Section 4.4.1 states that "[l]awfully existing nonconforming 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 nonconforming 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."

In considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The existing neighborhood is already a mix of two-, three-, and four-family structures of varying styles and forms. Directly across the street from 23 Cleveland is the former Carr School which has been converted into a multi-unit condominium building. Given the variety of styles, forms, massings and designs along Cleveland Street, Staff finds that the construction of this new, non-conforming two-family residential building will not be substantially more detrimental to the neighborhood than the existing non-conforming building.

SZO §9.13 allows for sites with nonconforming parking to apply for a Special Permit to modify parking requirements if the total number of spaces is less than six. In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are: increase in traffic volumes, increased traffic congestion or queuing of vehicles, change in the type(s) of traffic, change in traffic patterns and access to the site; reduction in on-street parking; unsafe conflict of motor vehicle and pedestrian traffic.

For units with 3 or more bedrooms, Applicants are required to provide two spaces per unit. The Applicants are able to provide two covered spaces as noted earlier in this report. The Applicants seek relief from providing two



additional parking spaces (one space for each unit). Staff finds that providing relief for these two spaces will not create an increase in traffic volumes, will not increase traffic congestion or queueing of vehicles, will not change the type of traffic on the street, nor will it negatively affect the traffic patterns, access to the site nor create an unsafe conflict of motor vehicle and pedestrian traffic. Staff finds that relief for two parking spaces will not significantly impact on-street parking.

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 to construct a two-family residence is consistent with the purpose of the RB district, which is, "[t]o 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."

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."*

As noted previously, in considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The existing neighborhood is already a mix of two-, three-, and four-family structures of varying styles and forms. Directly across the street from 23 Cleveland is the former Carr School which has been converted into a multi-unit condominium building. Given the variety of styles, forms, massings and designs along Cleveland Street, Staff finds that the construction of this new, non-conforming two-family residential building will not be substantially more detrimental to the neighborhood than the existing non-conforming building.

6. 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.

7. 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>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	1	2
<i>Parking Spaces:</i>	2	4



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie and Anne Brockelman 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 **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	Approval is for the construction of a two-family residence.	BP/CO	ISD/Plng.					
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>March 16, 2016</td><td>Initial application submitted to the City Clerk’s Office</td></tr></table>				Date (Stamp Date)	Submission	March 16, 2016	Initial application submitted to the City Clerk’s Office
	Date (Stamp Date)				Submission			
March 16, 2016	Initial application submitted to the City Clerk’s Office							
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.								
Pre-Construction								
1	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage report and plans stamped by a registered PE in Massachusetts must be submitted to the Engineering Department for review and approval.	BP	Eng.					
2	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.	BP	Eng.					
3	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.					
4	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD					
5	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.					
Design								



6	The Applicant shall adhere to all of the conditions contained in the Memorandum of Agreement (MOA) that was negotiated between the Application and the Somerville Historic Preservation Commission (HPC).	CO	Planning Staff / ISD	
Construction Impacts				
7	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 standard.	CO	DPW	
8	All construction materials and equipment must 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	T&P	
Electrical				
9	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
Site				
10	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
11	There shall be a minimum of two trees on the property as required under SZO §10.3.	CO	Plng.	
12	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.	Cont.	ISD	
Public Safety				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
14	All exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
15	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
16	A warning system shall be installed to indicate when a vehicle is exiting the underground parking area.	CO	Traffic & Parking / ISD/Plng	
17	Planning Staff will follow up with Applicants and check on status of trees as the project progresses and throughout the construction phase.	CO	Plng./ISD	
Final Sign-Off				



18	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.	
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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino

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



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_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

