



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

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Case #: ZBA 2016-114
Site: 105 Cross Street
Date of Decision: December 7, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 19, 2016

ZBA DECISION

Applicant Name:	Ayaz Hameed
Applicant Address:	105 Cross Street, Somerville, MA 02145
Property Owner Name:	Ayaz Hameed
Property Owner Address:	105 Cross Street, Somerville, MA 02145
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant and Owner, Ayaz Hameed, seeks a Special Permit under §4.4.1 of the SZO to substantially alter an existing non-conforming structure, including increasing the Floor Area Ratio, § 9.4.2 to increase the net floor area, and §9.5 and §9.13 for parking relief.
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<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1, §9.4.2, §9.5 & §9.13
<u>Date of Application:</u>	September 15, 2016
<u>Date(s) of Public Hearing:</u>	11/2, 11/16 & 12/7/16
<u>Date of Decision:</u>	December 7, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2016-114 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 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.



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DESCRIPTION:

The Applicant proposes to convert the property from a two-family to a three-family and increase the net floor area. The property is currently a rental and the three new units would be converted to condos. An existing shed at the rear of the property will be removed. The property is currently mostly covered by asphalt. The Applicant proposes to remove the asphalt and cover the majority of the property with concrete pavers. The Applicant proposes four parking spaces: two for his unit and one each for the two market-rate condos. The front façade of the structure in particular will undergo major changes: the partially-enclosed front porch is to be removed and the roof pitch changed to a gambrel. A gambrel-topped bay will be added.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, § 9.4.2, §9.5, §9.13):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §4.4.1, and § 9.4.2, §9.5, §9.13 of the SZO. This portion of the report goes through each of these sections in detail.

1. Information Supplied:

Regarding §4.4.1, § 9.4.2, §9.5, §9.13

The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1, § 9.4.2, §9.5, §9.13 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

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 substantial alterations proposed for 105 Cross Street would not be substantially more detrimental to the neighborhood than the existing conditions. Staff finds that the proposed alterations to the structure constitute an improvement to both the property and the surrounding neighborhood.

Regarding § 9.4.2, §9.5, §9.13

§ 9.4.2 of the SZO triggers the need for parking relief when the net floor area of a dwelling is being expanded either through an addition or interior reconstruction. In the case of 105 Cross Street, the net floor area is being increased and the FAR is increasing from .81 to .99, maxing out the FAR for this property.

In considering a special permit under §9.13 of the SZO, the following considerations must be taken into



account:

1. Increase in traffic volumes;
2. Increased traffic congestion or queuing of vehicles;
3. Change in the type(s) of traffic;
4. Change in traffic patterns and access to the site;
5. Reduction in on-street parking;
6. Unsafe conflict of motor vehicle and pedestrian traffic.

The Board finds that the addition of one more residential unit on this site will not significantly contribute to an increase in traffic volume, congestion or queuing of vehicles. With the use of the property continuing to be residential in nature, the type of traffic along Cross Street will not change because of this project. The traffic pattern will continue as currently existing as will access to and from the site. The site will be able to provide 3 parking spaces, one for each unit (one space is currently provided for the single residential unit) with changes to the site not creating unsafe or undo conflict between motor vehicle and pedestrian traffic.

This application also triggers the need for parking relief under § 9.5. The Applicant needs relief for 1 parking space. The calculation for parking relief is as follows:

$$(\text{new parking requirement} - \text{old parking requirement}) \times .5$$

In the case of 105 Cross Street, the new project requires 4.5 parking spaces. The existing conditions required 4 parking spaces. The parking relief formula is thus as follows:

$$(4.5 - 4) \times .5 = 1 \text{ parking space of relief*}$$

*The Applicant proposes placing four parking spaces at the rear of the lot: two for one of the units and one each for the other two units. While it is a step in the right direction that the pervious material coverage of the lot is being lessened with the asphalt being removed from the back yard and driveway, Staff finds that by covering the majority of the property with pavers, the Applicant and the City miss the opportunity to add more green space to this lot. Nearly the entire rear of the property will be taken up by parking, and this is not supported by the Board.

The Board finds and recommends that only three parking spaces should be provided on-site – one for each unit. In lieu of pavers or other hardscape material, Staff finds that the area that would have been the fourth parking space on the site should instead be converted to landscaping. This will help increase the green space percentages on the lot, visually improve the property, allow for better percolation of storm water, reduce the heat island effect, provide residents of the condos with a measure of outdoor recreation space, and provide residents with a view of something other than motor vehicles on the property.

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."*

Regarding §4.4.1

In considering a special permit under §4.4.1 of the SZO (which allows for up to 3 dwelling units on a parcel in the RB zone), the Board finds that the proposal to create such a 3-family complies with the standards of the RB zone which is "...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.”

Regarding §9.1

The proposal for 105 Cross Street is designed in such a way that the Board finds that it adheres to the general purpose purposes of this portion of the SZO including:

- providing visual relief from expanses of paving and reducing the glare and heat from parking lots through the inclusion of more landscaping on the site; (**if the number of parking spaces are reduced on the site from 4 to 3**)
- ensuring that some off-street storage of motor vehicles whose orderly entry and exit from the site will be provided.

III. 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 Board finds that the substantial alterations proposed for 105 Cross Street will allow the property owner to significantly improve the site which will benefit the surrounding neighborhood. Since the neighborhood is an eclectic mix of (mostly residential) structures, the continued residential use is in keeping with the surrounding environment.

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

The proposal will not add to the stock of affordable housing but will contribute to SomerVision metrics by adding one more residential unit to the City’s housing inventory.



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 convert an existing 2-family residence into three condos with three on-site parking spaces.	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>September 15, 2016</td><td>Application and supporting documents submitted to City Clerk’s office.</td></tr><tr><td>October 4, 2016</td><td>Updated documents submitted to OSPCD</td></tr><tr><td>November 16, 2016</td><td>Updated documents submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	September 15, 2016	Application and supporting documents submitted to City Clerk’s office.	October 4, 2016	Updated documents submitted to OSPCD	November 16, 2016	Updated documents submitted to OSPCD
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November 16, 2016	Updated documents submitted to OSPCD											
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.												
Before Permitting/Pre-Construction												
2	All sign-offs must be received from all departments including, but not limited to: Engineering, Traffic & Parking, Lights & Lines, prior to the issuance of a building permit.	BP	ISD/Ele ctrical									
3	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s storm water policy.	BP	Eng.									
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									
5	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									
Construction Impacts												



6	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.	
7	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application form signed
8	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	
9	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	
Design				
10	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to installation and prior to the issuance of a building permit.	BP	Plng.	
11	Trim material shall be wood or composite material. Vinyl shall not be used.	CO	Planning Staff / ISD	
12	The window placement shall be exactly as approved by the by the ZBA. "In-the field" changes to window placement are not allowed. Any such changes require review and approval of Planning Staff.	CO	Planning Staff / ISD	
13	Windows shall be two-over-one with a dark spacer between the glass. Window grids shall be applied to the exterior of the glass; no between-glass grids shall be permitted. The window glass shall not be tinted in any way nor shall it have a reflective coating.	CO		
14	The building shall be clad in wood or in a cementitious siding material. Vinyl siding shall not be used.	CO	Planning Staff / ISD	
15	The building shall be clad in wood or in a cementitious siding material. Vinyl siding shall not be used.	CO	Planning Staff / ISD	
Site				
16	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	CO / Perpetual	Plng. / ISD	
17	Pervious pavers shall be used for the driveway and parking areas	CO	ISD/Planning	
18	The dwelling has reached its maximum FAR and no further expansion of the building shall be permitted.	Perpetual	ISD/Planning	



19	No more than three (3) parking spaces shall be provided on-site	Perpetual	ISD/Planning	
20	All trash and recycling shall be screened from abutting properties and from the street.			
Public Safety				
21	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
22	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.	
23	Windows 3 feet or less from the property line – such as those proposed for the right elevation of the property which were originally measured at 3.06 feet from the property line – must be inoperable, fire-rated windows.	CO	ISD	
Miscellaneous				
24	A new Certificate of Occupancy must be applied for.	CO	ISD	
25	Prior to the issuance of a Certificate of Occupancy, the building must be converted from rental units to condos through the Somerville Condo Review Board.	CO	ISD/Planning	
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.	

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 _____

