



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

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Case #: ZBA 2016-11
Site: 0 Elmwood Street
Date of Decision: August 3, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 8, 2016

ZBA DECISION

Applicant Name:	27 Eaton Street, LLC
Applicant Address:	27 Eaton Street, Wakefield, MA 01880
Property Owner Name:	Rona Realty Limited Partnership
Property Owner Address:	369 Cutler Road, Hamilton, MA 01982
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

<u>Legal Notice:</u>	Applicant 27 Eaton Street, LLC, and Owner Rona Realty Limited, seek a Variance and Special Permit to construct 5 residential units on an undersized vacant lot, and for parking relief.
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<u>Zoning District/Ward:</u>	RC zone/Ward 7
<u>Date of Application:</u>	February 11, 2016
<u>Date(s) of Public Hearing:</u>	7/13 & 8/3/16
<u>Date of Decision:</u>	August 3, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2016-11 was opened before the Zoning Board of Appeals at Somerville City Hall on July 13, 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 proposal is to add a 3-story 5 unit structure on the lot with below grade parking.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.1.c & §9.13) & VARIANCE (§8.5.a)

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.

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 proposal requires a Special Permit to establish 4-6 dwelling units per section 7.11.1.c of the Somerville Zoning Ordinance. A Variance is also required to modify the lot which is nonconforming in total area, at 7,200sf when 7,500sf is the minimum required in the RC Zone. The proposal also requires 10 parking spaces per Section 9.5.1 of the Somerville Zoning Ordinance, but only provides 7 spaces on-site, so parking relief for 3 spaces is required under Section 9.13 of the Somerville Zoning Ordinance.

In considering a special permit under §7.11.1.c, and §9.13 of the SZO, the Board finds that the use proposed would not be substantially more detrimental to the neighborhood than the existing use.

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 as follows:

- 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 doesn't anticipate any detrimental impacts to the neighborhood relative to items 1-6 above as a result of granting 3 spaces of parking relief. The applicant will be submitting a parking memo and contributing any necessary remediation payments for improvements to the surrounding street as deemed necessary by the department of Traffic and Parking.

5.5.3. Authorization and Conditions for Variances. A variance from the requirements of this Ordinance may be authorized by the Board of Appeals only for reasons of practical difficulty and substantial hardship, and only where the Board finds that all of the following conditions apply:



(a)

There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing a substantial hardship, financial or otherwise.

The Board's Response:

The lot is undersized by only 300sf, without a Variance for minimum lot size, this lot would be unbuildable. One reason the lot is undersized is because 500sf was taken from the lot in 1931 for a sewer easement by the City of Somerville.

(b)

The specific variance as may be granted by the Board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.

The Board's Response:

The granting of the Variance is the minimum variance that will allow any owner to build on the lot. This Variance is necessary for any reasonable use of the land that involves building a structure.

(c)

The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of the nearby buildings, the Board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

The Board's Response:

The proposal is consistent with the zoning ordinance for uses and dimensions in RC zones in every way except for total lot area. Total lot area will not be impacted in any way by the proposal.

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.

The proposal is consistent with the purpose of the district, which is: to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1.

The special permit is consistent with the purposes set forth in Section 9.1.

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."*

Surrounding Neighborhood: The surrounding neighborhood contains a mix of residential and industrial structures, but is gradually transitioning to residential uses. The neighborhood is located in close proximity to public transit of various forms, including the Davis Square T stop as well as bus lines on Massachusetts Avenue. It is also extremely close to the Somerville Community Path.

Impacts of Proposal (Design and Compatibility): The design is generally compatible with the mix of structures and uses in the neighborhood and its massing and detailing helps to transition between the existing industrial uses and larger housing developments and the smaller scale of 2-1/2 story homes that flank the lot.

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.*

Impacts of Proposal (Environmental): No adverse impacts on the surrounding area anticipated as a result of excessive noise, illumination, glare, dust smoke or vibration, or from emissions of noxious materials, or pollution of water ways or ground water, or interference with radio or television signals.

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.*

Impacts of Proposal (Circulation): No traffic congestion or potential for accidents are anticipated as a result of this structure.

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

8. **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.

No impact on affordable housing.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti and Elaine Severino with Danielle Evans and Josh Safdie 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 special permit and variance to build on an undersized lot, to build 5 units in an RC Zone and for 3 spaces of parking relief. 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>2/1/2016</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>6/09/2016</td><td>Modified plans submitted to OSPCD (1-16)</td></tr></table>				Date (Stamp Date)	Submission	2/1/2016	Initial application submitted to the City Clerk’s Office	6/09/2016	Modified plans submitted to OSPCD (1-16)
	Date (Stamp Date)				Submission					
	2/1/2016				Initial application submitted to the City Clerk’s Office					
	6/09/2016				Modified plans submitted to OSPCD (1-16)					
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng.							
3	The Applicant will be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.							
4	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.							
5	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Eng.							



6	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. 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.	BP	Eng	
7	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	BP	Eng.	
Construction Impacts				
8	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.	
9	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application formed signed
10	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	
11	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				
12	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
13	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
14	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	



15	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	
16	All new sidewalks will be installed by the Applicant in accordance with the specifications of the Highway Superintendent. Specifically, all driveway aprons shall be concrete;	CO	Plng.	
17	Applicant will supply secure bicycle parking on-site for 10 bicycles (this doesn't include space within the units).	CO	Plng.	
Traffic & Parking				
18	Upon completion of the parking memo, the Applicant shall provide a payment to the city for any streetscape improvements deemed necessary by the Traffic and Parking Department, or the Applicant shall make these improvements themselves as required by Traffic and Parking.	CO	T&P	
Miscellaneous				
19	The Applicant shall participate in a 1-day design charrette with the developer of 95-99 Elmwood Street (located in Cambridge) Adam Siegel, and Blair Galinsky (abutter and developer of neighboring parcel), to improve Elmwood Street from its intersection with Tannery Brook Row to its termination at the Cambridge Linear Park.	October 31, 2016	Plng.	
20	The Applicant shall coordinate as necessary with the City of Cambridge and the City of Somerville to provide necessary funding for the agreed upon streetscape improvements in an amount not to exceed \$25,000.	CO	Plng.	
Public Safety				
21	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
22	Any transformers should be located as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO		
23	The building shall be sprinkled.	CO	FP/ISD	
Final Sign-Off				
23	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*
Elaine Severino
Anne Brockelman (Alt.)

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.
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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 _____

