



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-110
Site: 545 McGrath Highway
Date of Decision: November 2, 2016
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: November 10, 2016

ZBA DECISION

Applicant Name:	Matthew Martino & Paula Vancini
Applicant Address:	15 Miner Street, Somerville, MA 02145
Property Owner Name:	Matthew Martino & Paula Vancini
Property Owner Address:	25 Elmwood Street, Somerville, MA 02144
Agent Name:	Hazel Ryerson, Kessler McGuinness & Associates, LLC
Agent Address:	1121 Washington Street, Newton, MA 02465

Legal Notice: Applicants and Owners, Matthew Martino & Paula Vancini, seek Special Permits under §4.4.1 and §8.5 of the SZO to intensify the non-conforming rear and right yard setbacks as they convert a structure with a business use to one with residential/Artist housing use. Applicants/Owners seek a Special Permit under Article 9 of the SZO for parking relief.

<u>Zoning District/Ward:</u>	NB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1, §8.5, §9
<u>Date of Application:</u>	September 15, 2016
<u>Date(s) of Public Hearing:</u>	November 2, 2016
<u>Date of Decision:</u>	November 2, 2016
<u>Vote:</u>	4-0

Appeal #ZBA 2016-110 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 Applicants propose to convert the building to a single unit of artist housing for the owner. The first floor will be converted into a studio, kitchen, bathroom and living area. A 604 square foot second floor will be added with two bedrooms, a full bathroom, and a small roof deck. The first floor may, at times, be used for artist events and/or displays.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & SZO §8.5, SZO §9.13):

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 Applicants 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.
- The Board finds that the information provided by the Applicants conforms to the requirements of §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."**A. Under SZO §4.4.1 and 8.5**

The existing structure is non-conforming with regard to the right and rear yard setbacks.

With regard to the right side yard setback:

The property abuts an RB district along the right side yard setback. According to SZO §8.5.H, footnote 12: *"Side and rear yards for sites abutting residential districts: Where a lot in a business or industrial district abuts a lot or district line in a RA, RB, or RC district, no building in the business or industrial district shall be erected closer to the residential line than one-third (1/2) the height of the said building, but not less than fifteen (15) feet."* 545 McGrath currently rests 1 foot, 3 ½ inches from the RB district line. The Applicants' proposal will not further intrude into the right side yard setback.

With regard to the rear yard setback:

According to SZO §8.5.I footnote 13, rear yard setbacks may be reduced for shallow lots (those less than 100 feet deep, which this lot is), but that no rear yard shall be less than ten feet deep: *"Reduction of rear yards for shallow lots: For each foot by which a lot is less than one hundred (100) feet deep on the effective date of this Ordinance, three (3) inches may be deducted from the required depth of the rear yard, provided that no rear yard shall be less than ten (10) feet."* 545 McGrath's rear yard is set back 5 feet 1 ¼ inches from the lot line. The Applicants' proposal will not further intrude into the rear yard setback.

Section 4.4.1 states that "[l]awfully existing non-conforming 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."



The Applicants' propose to convert the current commercial use (liquor store) to artist's housing containing one residential unit and some gallery/display space. Staff finds that the conversion to artist's housing will reduce the intensity of the use on this property. Single-unit residential use should cause a reduction in traffic volume to this site and, consequently, reduce the need for street parking that the liquor store use encourages. While the Applicant does propose that the first floor space may, at times, be used for artists to work and/or to display what they produce, any such use would be irregular in nature and should not result in the higher volume of traffic and activity that the current liquor store use promotes.

The proposal includes the upward extension of the existing non-conformities at the right side yard setback and rear yard setback. Staff finds that the proposed exterior renovations will bring a much-needed facelift to this property which has been in decline for some time. The proposed changes to this adaptive-reuse project will visually improve this portion of the neighborhood while the less-intensive use will reduce traffic volume and congestion at a very busy intersection.

The residential dwellings in the surrounding neighborhood are predominantly 2.5-story gable-fronted structures. Yet, the modern additions and façade transformation proposed for the current structure breathe new life into this commercial corner and provide a significant improvement to this part of the McGrath Highway corridor.

B. Under SZO §9.13

SZO §9.13 allows for sites with non-conforming 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.

Under §9.13.6.a, parking requirements for non-conforming structures and lots where the total number of parking spaces required by the SZO is six or fewer, may be waved. According to the SZO, 1.5 parking spaces must be provided for a two-bedroom unit. In the case of 545 McGrath Highway, the site is currently not capable of providing any on-site parking under its current liquor store use. The dimensions of the lot and the open space available are not changing under the proposed use. The Applicants have no land area on which to provide any parking even under the less-intense residential use.

The Board finds that the proposed, two-bedroom artist housing use:

- 1) will reduce the traffic volume destined for the site;
- 2) decrease the traffic congestion and queuing of vehicles with this less-intensive use;
- 3) will not change the type of traffic other than to potentially encourage more pedestrian traffic given the artist-housing use;
- 4) will not change the traffic patterns or access to the site. The traffic pattern on McGrath Highway will not change due to the change in use and the abutting Delaware Street is remaining a one-way heading toward McGrath;
- 5) should reduce the amount of on-street parking needed. The current commercial/liquor-store use requires significant on-street parking throughout the day and into the evening on a consistent basis whereas the proposed artist housing use will reduce the need for heavier-volume on-street parking;



6) will reduce the potential for unsafe conflict of motor vehicle and pedestrian traffic due to the overall reduction in traffic whose destination is this site.

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 Board finds that the Applicants' proposal is consistent with the purposes of the NB district which, in addition to allowing for residential use, is "to establish and reserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods."

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, the residential dwellings in the immediate surrounding residential neighborhood are predominantly 2.5-story gable-fronted structures. Staff finds that, though different stylistically, the modern additions and façade transformations proposed for the extant structure breathe new life into this commercial corner and provide a significant visual improvement to this part of the McGrath Highway corridor.

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.*

- The proposal will add one new dwelling unit to Somerville's housing inventory.



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 to convert the existing property from commercial to artist housing use and for parking relief for 1.5 spaces.	BP/CO	ISD/Plng.		
	Date (Stamp Date)				Submission
	September 15, 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 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 drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City’s stormwater policy.	BP	Eng.		
3	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		
4	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					
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.		



6	If any signage is to be added to the building, it shall not be interior lit and shall be first reviewed and approved by Planning Staff unless SPGA approval is needed.	CO/Perpetual	Plng.	
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	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 form signed
10	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	
Site				
11	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				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	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.	
14	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
Final Sign-Off				
15	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

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 _____

