



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2015-115

**Date:** April 20, 2016

**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 38 Day Street

**Applicant Name:** Darin Samaraweera  
**Applicant Address:** 20 Park Plaza, Suite 468,  
Boston, MA 02116  
**Owner Name:** Darin Samaraweera  
**Owner Address:** 20 Park Plaza, Suite 468, Boston,  
MA 02116  
**Alderman:** Lance Davis



**Legal Notice:** 38 Day Street. Applicant and Owner, Darin Samaraweera, seeks a Special Permit per SZO §4.4.1 to alter a non-conforming structure by adding an additional unit in the basement. The Applicant/Owner also seeks a parking Variance for 2 spaces per SZO §5.5 and §9.5 RB Zone, Ward 6.

**Dates of Public Hearing:** April 20, 2016

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**I. PROJECT DESCRIPTION**

1. **Subject Property:** The subject property is a c.1920 four-story, 25-unit apartment building in the RC zone. The property rests on a 10,890 square foot lot.
2. **Proposal:** The proposal consists of creating a 1,300 square foot three bedroom unit in the basement. This additional basement unit requires 2 additional parking spaces for which the Applicant seeks a Variance.
3. **Green Building Practices:** None listed.

4. Comments:

*Ward Alderman:* Lance Davis has been notified of this project.

**II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1) and (SZO §5.5 and §9.5)**

*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, §5.5 and §9.5 in detail.*

**1. Information Supplied:****Regarding SZO §4.4.1:**

- 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 Permit.

**Regarding SZO §9.1.3:**

- Staff finds that the information provided by the Applicant conforms to the requirements of §5.5 and §9.5 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permit.

**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 SZO §4.4.1:**

- With regard to this project, the property is already non-conforming with regard to number of dwelling units, lot area per dwelling unit, FAR, rear yard setback, right yard setback and number of stories.
- The addition of the window wells which are needed to provide egress, further increase the non-conformity with regard to the rear yard setback. The rear yard setback is currently 4'8" and will be reduced to 1'8".

**Regarding SZO §5.5 and §9.5:**

The additional three bedroom unit requires that another two parking spaces be provided. The property is such that only 10 on-site parking spaces can be provided for all of the current units in the building. There is not sufficient land on the parcel to provide the 2 parking spaces the new basement unit requires and, therefore, the Applicant is requesting relief for these two spaces.

*Section 4.4.1 states that Lawfully 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.*

**Regarding SZO §4.4.1:**

- In considering a Special Permit under §4.4.1 of the SZO, Staff finds that the alterations proposed to this structure will not be substantially more detrimental to the neighborhood than the conditions currently existing on the property.
- With the exception of the addition of the window wells required for egress purposes, all of the work for this project will occur on the interior of the building and allow for the Applicant to activate space that is otherwise unused.

**Regarding SZO §5.5 and §9.5:**

- In considering a Variance under §5.5 of the SZO and under §9.5 of the SZO, Staff finds that the property is currently extremely lacking in parking spaces for the existing units. According to §9.5, for residential, multiple dwelling (unit) buildings, the following parking calculations apply:

- 1.0 per efficiency/studio unit
- 1.5 per unit with 1 or 2 bedrooms
- 2.0 per unit with 3 or more bedrooms
- 1.0 visitor space for every 6 units

Currently, 38 Day Street consists of the following:

- (13) 1-bedroom units (one in basement, remainder in the 1<sup>st</sup> through 4<sup>th</sup> floors)
- (12) studio units (first through fourth floors)

Based on the above, the Applicant should be providing a total of 36 parking spaces. The addition of the 3-bedroom basement unit would bring the total required to 38. The Applicant currently is able to provide 10 parking spaces due to the limited amount of open land available on the parcel. The Applicant proposes to keep the number of spaces set at 10 for the same reasons.

**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 SZO §4.4.1:**

- The proposal 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; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose of the RC 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."

**Regarding SZO §5.5 and §9.5:**

- Staff finds the parking situation at 38 Day Street to be particularly challenging in that so little parking can currently be provided for such a densely-inhabited building. That being said, Staff finds that providing relief for two spaces will not significantly increase traffic volumes, traffic congestion or queuing of vehicles nor will it change the type of traffic, traffic patterns or access to the site nor cause unsafe conflict of motor vehicle and pedestrian traffic.

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."*

- Day Street is comprised of a mix of single and multi-family residential structures, some of which are condos and others apartments. Some of these residences are converted historic dwelling houses and others are multi-unit, low-rise apartment buildings. Also present on the street are city-owned parcels, parking lots, office buildings and a restaurant.

5. **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.

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 not contribute to the metrics of SomerVision.

### III. RECOMMENDATION

Special Permits under **SZO §4.4.1** and **SZO §5.5 and §9.5:**

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 and VARIANCE**.

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 create a 3-bedroom unit in the basement of 38 Day Street.	BP/CO	ISD/ Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>December 31, 2015</td><td>Initial submission to City Clerk</td></tr><tr><td>March 30, 2016</td><td>Final plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	December 31, 2015	Initial submission to City Clerk	March 30, 2016	Final plans submitted to OSPCD
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<u>Any changes to the approved plan that are not determined to be de minimis by Planning Staff must receive ZBA approval.</u>										
Pre-Construction										
2	The Applicant must provide all final electrical plans to the Wiring Inspector and receive his sign-off prior to beginning construction.	BP	Wiring Inspector							
Construction Impacts										
3	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							
4	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	ISD/Plng.							
5	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										
6	<p>The plans submitted to ISD for a building permit to create the 3-bedroom basement unit must match the approved ZBA plans <u>EXACTLY</u>. <u>ANY</u> changes to the approved plans <u>MUST</u> be submitted to Planning Staff for review and approval <u>prior to</u> executing them on site.</p> <p>The “as-built” 3-bedroom unit shall match the ZBA approved plans <u>EXACTLY</u> in order to obtain ISD and Planning sign-off for unit occupancy.</p>	ISD	ISD/Plng							
Site										

7	The Applicant shall comply with ALL requirements of ISD, Fire, Electrical, Plumbing that those City entities deem necessary prior to, during and post-construction of the 3-bedroom basement unit. Such requirements of those City entities shall not be limited to just the 3-bedroom basement unit, but shall apply to any and all other issues related to the purview of each of said City entities.	Perpetual/D uring Construction /pre- construction /sign-off/CO	Plng. / ISD / Electrical / Fire Preventio n / Plumbing	
8	No further units shall be created in this building after the construction of the 3-bedroom basement unit created as part of this case; 26 units shall be the maximum number of units allowed in this structure.	Perpetual	Plng. / ISD	
<b>Miscellaneous</b>				
9	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Cont.	ISD	
<b>Public Safety</b>				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
<b>Final Sign-Off</b>				
11	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.	