



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

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Case #: ZBA 2014-106
Site: 30 College Avenue
Date of Decision: November 5, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 13, 2014

ZBA DECISION

Applicant Name:	Mouhab Z. Rizkallah
Applicant Address:	30 College Avenue, Somerville, MA 02144
Property Owner Name:	Mouhab Z. Rizkallah
Property Owner Address:	30 College Avenue, Somerville, MA 02144
Agent Name:	N/A

Legal Notice: Applicant and Owner, Mouhab Rizkallah, seeks a Special Permit per SZO §4.4.1 to increase the floor area on the existing third floor.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 2, 2014
<u>Date(s) of Public Hearing:</u>	November 5, 2014
<u>Date of Decision:</u>	November 5, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2014-106 was opened before the Zoning Board of Appeals at Somerville City Hall on November 5, 2014. 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.



DESCRIPTION:

The proposal is for a third story addition to accommodate two exam rooms. The addition will be visible from Winter Street. This area of the building is already a focal point with a large arched window. The addition will increase the height at the entrance, the arched window will be moved up to the third floor and a small window will be installed on the second floor.

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 §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."*

Structural changes to a nonconforming structure other than one- and two-family dwelling units require a special permit. The property is nonconforming to several setbacks since it is on a flag shaped lot with several frontages.

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. Planning Staff have received calls from concerned abutters. Of major concern is the location of the existing dumpster and construction times of the proposed addition. Planning Staff is proposing two conditions as part of this report, the first being that the dumpster is relocated to one of the existing parking spaces (the project will still comply with the parking requirement) and be screened with fencing. The second is that work will comply with City regulations and can only take place between 7 am and 7 pm Monday through Saturday.

The district standards and guidelines for CBD districts do not apply since this proposal does not require a special permit with design review or special permit with site plan review.

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 I, 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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the CBD district, which is, "To preserve and enhance central business areas for retail, business services, housing, and office uses and to promote a strong pedestrian character and scale in those areas. A primary goal for the districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses."

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."*



The site is surrounded by a mix of different uses including two- and multi-family dwellings, offices, restaurants, and the retail establishments of Davis Square. The lot lines of the subject property and those adjoining it are rarely at right angles, resulting in peculiar relationships between structures and lot lines.

There are little to no impacts to the proposal. The addition will only be seen from Winter Street and the subject parking lot.

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

The property will not affect 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.*

This project complies with the SomerVision plan by allowing an increase in commercial development in a business district.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 for a Special Permit per SZO §4.4.1 to increase the floor area on the existing third floor. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 2, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>September 25, 2014</td> <td>Modified plans submitted to OSPCD (Elevations Proposed, Floor Plans Proposed)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 2, 2014	Initial application submitted to the City Clerk’s Office	September 25, 2014	Modified plans submitted to OSPCD (Elevations Proposed, Floor Plans Proposed)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										



2	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.	
3	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	
4	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				
5	The addition shall match the existing materials and color of the building.	CO	Plng.	
6	The proposed cornice at the top of the addition shall match the existing cornices in material and color.	CO	Plng.	
7	The dumpster will be relocated to an existing parking space along the lot line shared between Winter Street and Park Avenue and be fully screened or the Applicant can change to totes and be relocated and screened elsewhere on the property.	BP	Plng.	
Miscellaneous				
8	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	
9	Construction can only take place between 7 am and 7 pm Monday through Saturday.	Perp	ISD	
Final Sign-Off				
10	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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
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

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

Signed _____ City Clerk Date _____

