



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

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Case #: ZBA 2015-83
Site: 96 Cross Street
Date of Decision: November 4, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 13, 2015

ZBA DECISION

Applicant Name:	Conness, LLC
Applicant Address:	25 Joseph Street, #3, Somerville, MA 02143
Property Owner Name:	Conness, LLC
Property Owner Address:	25 Joseph Street, #3, Somerville, MA 02143
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Applicant and Owner, Conness LLC, seek a special permit to modify a nonconforming structure under SZO §4.4.1, by adding a single family addition on top of an existing garage, and adding a retail/office space to the garage. A special permit for parking relief for one space under SZO §9.1 is also required.

<u>Zoning District/Ward:</u>	RB zone/Ward 1
<u>Zoning Approval Sought:</u>	§4.4.1 & §9.1
<u>Date of Application:</u>	September 17, 2015
<u>Date(s) of Public Hearing:</u>	10/21 & 11/4/15
<u>Date of Decision:</u>	November 4, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-83 was opened before the Zoning Board of Appeals at Somerville City Hall on October 21, 2015. 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposed project adds a two story addition on the roof of the existing garage to function as a single family residence. One full-size and one compact parking are provided in the existing garage which utilize the existing garage entry. A 500sf office/retail area is also added to the existing structure on the ground floor. The proposed addition is accessed via a new stairway located within the existing garage. Several openings are added to the façade and roof of the existing structure to create small courtyard spaces which help to provide permeable surface area and outdoor amenities for inhabitants. A roof deck is also provided on the roof of the existing structure, accessible from the first level of the proposed addition. Both the roof deck and the courtyard spaces are screened from view with green-screen structures that will provide a surface for vines to grow on. The proposal would repaint the existing structure in white, and the primary facades of the addition would be stained cedar.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.1):

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."*

The structure is currently nonconforming with respect to the following use: motor vehicle related sales and service in an RB zone; and the following dimensional requirements: minimum lot size, maximum ground coverage, landscaped area, pervious area, and all setback requirements.

The proposal will impact the following nonconforming use: motor vehicle related sales and service, replacing that nonconforming use with an office/retail space; Changing one nonconforming use to another nonconforming use requires the Applicant to obtain special permits under §4.5 of the Somerville Zoning Ordinance (SZO).

Section 4.5 states that "A nonconforming use may be changed to another nonconforming use only by special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing nonconforming use. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character. Any change from a nonconforming nonresidential use to a nonconforming residential use under this section shall also be subject to Article 7, § 7.3."

The proposal will alter the nonconforming structure by adding and removing openings in the existing walls and roof, and adding two additional stories. The alteration of a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "lawfully 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 or 4.5 of the SZO, the Board finds that the alterations and use proposed would not be substantially more detrimental to the neighborhood than the existing structure and use. In fact, the proposed change in use and structural alterations will provide a much needed upgrade to the existing structure, and help to improve the visual character of the neighborhood through new materials, finishes, visible landscape features, and a small retail/office space at ground level. Furthermore, the owner and architect have chosen to go the route of adaptive reuse, which helps to maintain some of the existing neighborhood character, and will result in a less-disruptive construction process and finished product. The proposal has been designed with setbacks that minimally impact the neighbors and the existing street wall of Flint and Cross Streets.

The design improves the condition at the ground level of the site by activating the façade with greenery and a new space for a small business. The addition on the second and third levels is respectful of both the neighbor at 58 Flint street (by stepping back and staggering lines of sight), and also works to transition between the street walls of Flint and Cross Streets by holding the edge and incorporating transitional architectural elements. The owner and architect held a public meeting to engage neighbors in an open dialogue about any potential concerns, and have made a good faith effort to address these concerns.

While the proposal provides the required 2 spaces of parking relief for the addition of a single family residence, it requires one space of parking relief for the office/retail space.

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 addition of a small office/retail space would likely be less-detrimental with respect to the previous use of the site as an autoglass repair shop, and would not increase traffic volumes, congestion or queuing of vehicles, traffic patterns or access, would not reduce on street parking, and would not create unsafe conflict of motor vehicle and pedestrian traffic. The proposed use would reduce the overall amount of traffic as the occupants will use public transportation and or bicycles on a regular basis and the ground floor office/retail will attract local pedestrian traffic. The type and frequency of traffic will change, due to eliminating the automotive use and creating a residential building with a small office/retail component. The generated traffic would be more appropriate to a residential context this mix of uses will encourage pedestrian activity.

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 “promoting 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 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; 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 encourage housing for persons of all income levels; and to preserve and increase the amenities of the municipality.”

The proposal is consistent with the purpose of the district (6.1.2. RB - Residence Districts) 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.

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 proposal is consistent with the purposes of providing adequate places for storing motor vehicles off street, reducing hazards to pedestrians, protecting adjoining lots from nuisances and hazards, and promoting bicycle use.

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 surrounding neighborhood is composed of a mix of residential and mixed-use structures with small office/retail space on the ground floor. The structures are of varied heights, ranging from one to three stories, and various styles and materials including, gabled, mansard and flat roofs, and shingle, clapboard and brick facades. The proposal is consistent both in material and use of the existing neighborhood, essentially converting the existing autoglass shop which is an anomaly, to a more compatible use which will provide an amenity to the neighborhood.

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.*

No adverse environmental impacts are anticipated as a result of the proposal. Noise, illumination, glare, dust, smoke and vibration should actually be reduced with the removal of the existing automobile-related use. Emissions of noxious or hazardous materials are not proposed as part of the proposal and will certainly be an improvement over the existing use. Pollution of waterways or ground water will also be reduced as the design thoughtfully incorporates permeable areas where previously there were none. No signal interference is anticipated.

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.*

The proposal will not be more detrimental in terms of vehicular or pedestrian circulation, and will likely improve the local conditions by encouraging pedestrian activity through incorporating a mix of uses.

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.*

<u>SomerVision Summary</u>	<u>Existing</u>	<u>Proposed</u>
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<i>Dwelling Units:</i>	0	1
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	1750	500
<i>Estimated Employment:</i>	3	1
<i>Parking Spaces:</i>	0	2



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. Danielle Evans 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								
	Approval is for the alteration of a nonconforming structure, parking relief and change in nonconforming use. This approval is based upon the following application materials and the plans submitted by the Applicant: <table border="1" style="margin: 10px auto; width: 80%;"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>9/17/2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>9/29/2015</td> <td>Modified plans submitted to OSPCD (1-6)</td> </tr> <tr> <td>10/27/2015</td> <td>Modified plans submitted to OSPCD (1-10)</td> </tr> </tbody> </table> Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.	Date (Stamp Date)	Submission	9/17/2015	Initial application submitted to the City Clerk's Office	9/29/2015	Modified plans submitted to OSPCD (1-6)	10/27/2015	Modified plans submitted to OSPCD (1-10)	BP/CO	ISD/PIng.	
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9/17/2015	Initial application submitted to the City Clerk's Office											
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Construction Impacts												
1	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	PIng.									
2	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									
3	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												
4	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	PIng.									



5	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				
6	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
7	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				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
9	To the extent possible, 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.	
Signage				
10	a) Signage will be limited in size and location to that shown in the elevation diagrams and lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
Final Sign-Off				
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.	



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 _____

