



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

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DANIELLE EVANS  
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JOSH SAFDIE (ALT.)

**Case #: ZBA 2014-83**  
**Site: 54-56A Elm Street**  
**Date of Decision: February 4, 2015**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: February 18, 2015**

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**ZBA DECISION**

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<b>Applicant Name:</b>	54 Elm, LLC
<b>Applicant Address:</b>	464 Common Street, Suite 322, Belmont, MA 02478
<b>Property Owner Name:</b>	54 Elm, LLC
<b>Property Owner Address:</b>	464 Common Street, Suite 322, Belmont, MA 02478
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

**Legal Notice:** Applicant and Owner, 54 Elm, LLC, seeks a Special Permit to alter and expand a nonconforming structure by rebuilding the existing storefront with a second floor to add an additional dwelling unit on site. Parking relief is also required.

<b><u>Zoning District/Ward:</u></b>	RB zone/Ward 5
<b><u>Zoning Approval Sought:</u></b>	§4.4.1 & §9.13
<b><u>Date of Application:</u></b>	August 6, 2014
<b><u>Date(s) of Public Hearing:</u></b>	1/21, 1/29 & 2/4/15
<b><u>Date of Decision:</u></b>	February 4, 2015
<b><u>Vote:</u></b>	5-0

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Appeal #ZBA 2014-83 was opened before the Zoning Board of Appeals at Somerville City Hall on January 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is to add an additional dwelling unit to the site by renovating the existing storefront with a second story residential unit. There will be 850 square feet of commercial space available with a 1,300 square foot residential unit. The existing garage on site, facing Mossland, will be demolished and replaced with a carport for one vehicle.

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

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."*

Per SZO §4.4.1 alterations to a lawfully existing nonconforming structures may be enlarged, extended, and renovated by a special permit. Extending the nonconforming rear setback and sideyard setback require a special permit. Only one parking space can be maintained on site because of an existing loading zone. Two spaces of parking relief are required per SZO §9.13. SZO §9.4.2 states that an increase in net floor area by addition to the exterior which does not have sufficient off-street parking requires full compliance for the increase in net floor area. Therefore, 2 spaces of parking relief are required. At this time, there is no proposal for the tenanting of the first floor. The Applicant is aware that some uses may require further relief but is choosing to wait until a tenant is identified.

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.

In the proposed zoning code this corner lot is in a 3-story mixed-use district which permits the development of apartment, mixed-use, and commercial building types. To add a second story to the structure requires a special permit since there are several nonconforming aspects of the shophouse building type. In the Board's discretion to approve or deny a special permit authorizing an alteration to a nonconforming structure, the review board must consider the following:

- i). The extent and nature of the proposed alteration;
- ii). The ability of conforming alterations to meet the demonstrated need of the Applicant;
- iii). Consistency of the proposed alterations with the evolution of neighboring structures;
- iv). Establishment of permeable lot surface, to the maximum extent possible.
- v). Conformance to design guidelines in this Ordinance.
- vi) That the alteration is not substantially more detrimental to the neighborhood than the existing structure.

The proposal is to add an additional dwelling unit onto an existing nonconforming shophouse.

It is unlikely that neighboring properties in the same district (in this case, the properties at the corner of Cedar/Mossland and Elm) will develop in this manner. They will probably redevelop instead of adding onto the existing storefront. The addition to the property is sited to be the least impactful by placing it along the public way. The updated storefront will increase options for tenancy and bring a service back to the neighborhood. The permeable area is increasing by 3%.



No parking relief is required in the new code since this property can provide up to 1 space per unit. Bicycle parking is requirement of the new code. A condition of this report is that 3 covered bicycle parking spaces be added on the site near the vehicle parking.

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 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, 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." A convenient store and an additional housing unit are compatible with the goals of the district. The convenient store has added quick access to fresh foods and sundries for many years without residents needs to walk to Porter Square.

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 a mix of residential and commercial uses. Elm Street is a connection from the Somerville Avenue corridor and Davis Square. Cedar and Mossland Streets are a connection to Porter Square, Mass Ave in Cambridge, and Beacon Street. Existing businesses in the area include Big Fish Little Fish, Griffin Real Estate, and Best Pest Control as well as Porter Square shopping center.

There are little to no impacts to the proposal. An additional residential unit will not have an impact except those customary to residential uses. The improvements to the storefront will improve the appearance of the building and provide an amenity to the community.

5. 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.*

Two spaces of parking relief are required. The area is accessible by six bus lines and Porter Square redline and commuter rail station. People that relocate to this area will most likely not desire to have a vehicle since there is easy access to daily goods and services.

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

There will be no impact on existing affordable housing.

6. 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.*



<i>SomerVision Summary</i>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	870	856
<i>Estimated Employment:</i>	Unknown	Unknown
<i>Parking Spaces:</i>	1	1
<i>Publicly Accessible Open Space:</i>	0	0

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Josh Safdie absent. 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 the . 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>August 6, 2014</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>January 22, 2015</td> <td>Modified plans submitted to OSPCD (<b>page numbers</b>)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 6, 2014	Initial application submitted to the City Clerk’s Office	January 22, 2015	Modified plans submitted to OSPCD ( <b>page numbers</b> )
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January 22, 2015	Modified plans submitted to OSPCD ( <b>page numbers</b> )									
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.										
<b>Pre-Construction</b>										
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/reports must be submitted to the Engineering Department for review and approval.	BP	Eng.							



4	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 as well as a list of streets that have additional opening restrictions.	BP	Eng.	
<b>Construction Impacts</b>				
5	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	
6	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	
<b>Design</b>				
7	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
<b>Site</b>				
8	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
9	The utilities must be upgraded and relocated from the current entrance at the site.	Installation of Utilities	Wiring Inspector	
10	The Applicant shall buy and install one (1) U-shaped bike rack on the Elm Street frontage.	CO	Plng.	
<b>Traffic &amp; Parking</b>				
11	The Applicant will supply 3 covered bicycle racks on site.	CO	Plng	
<b>Miscellaneous</b>				
12	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	
<b>Public Safety</b>				
13	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. The property shall have a fire suppression system.	CO	FP	
<b>Signage</b>				
14	All proposed signage shall be reviewed by Planning Staff prior to installation. There shall be no internally illuminated box signs. Lighting after 10p.m. facing residential property will be turned down or off.	CO/Cont.	Plng.	
<b>Final Sign-Off</b>				



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.	
16	There shall be no parking of construction vehicles on Elm Street.	Cont.	ISD	
17	There shall be no construction delivery before 10am Monday-Sunday.	Cont.	ISD	



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 \_\_\_\_\_

