



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

STAFF

GEORGE PROAKIS, *PLANNING DIRECTOR*
LORI MASSA, *SENIOR PLANNER*
ADAM DUCHESNEAU, *PLANNER*
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*
FREDERICK J. LUND, *SENIOR DRAFTSMAN*

Case #: ZBA 2011-29

Date: May 4, 2011

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 44 MEDFORD STREET

Applicant Name: F. L. Realty Development, LLC

Applicant Address: 46 Medford Street, Somerville MA 02143

Property Owner Name: same

Agent Name: Steven L. Cicatelli, Esq. Cicatelli & Cicatelli

Agent Address: 266 Main Street, Stoneham, MA 02180

Alderman: Roche

Legal Notice: Applicant and Owner F&L Realty Development, LLC, seeks a variance from the minimum lot area per dwelling unit requirement under SZO §8.5.B to reconfigure the lot line separating 44 and 46 Medford Street, so that each building sits on a single lot. BA zone. Ward 2.

Zoning District/Ward: BA / Ward 2

Zoning Approval Sought: Variance from §8.5.B

Date of Application: March 31, 2011

Date(s) of Public Hearing: ZBA: May 4, 2011

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is an approximately 3090 square foot parcel on which is a 3 story three-family wood framed house and the rear of a 2.5 story wood and brick structure that crosses the lot line onto the lot of #46 Medford Street. The adjacent lot contains the remainder of the wood and brick structure on an existing approximately 3800 square foot lot.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722

www.somervillema.gov



2. Proposal: The applicant is proposing to move the lot line between the lots at 44 and 46 Medford Street, to place one building on each lot. This would result in a lot at 44 Medford Street of 1,498 square feet with the existing three-family building, and a lot of 5407 square feet with the existing wood and brick building. Doing so requires the sites to be reviewed for zoning compliance, to ensure that the change does not create or extend a non-conformity. The applicant is therefore seeking a variance to retain the house on the lot at 44 Medford Street with a new nonconforming lot area per dwelling unit. There is no construction associated with this applicant, and the applicant has indicated that at this time there is no intention to sell these lots separately.

3. Nature of Application: The relocation of this lot line would not create any new non-conformities on the lot at 46 Medford Street, and would result in a circumstance where existing non-conforming side setbacks would become more conforming. Because no enlarging, extending, renovating or altering is occurring in this case, no review under SZO Section 4.4.1 is required, and no further zoning relief is required. The site at 44 Medford Street would also result in amore conforming right side and rear setback, while front and left side setbacks would not change. Therefore, no further zoning relief is required as it relates to these dimensions.

The BA zoning district requires 875 square feet of lot area per dwelling unit. Prior to the subdivision, the lot provides 1029 square feet per unit. After the subdivision the lot will provide 499 square feet of lot area per unit. Therefore, the applicant is seeking Variance for relief from minimum lot size per dwelling unit requirements under §8.5.B.

4. Surrounding Neighborhood: The subject property is located on the edge of the Boynton Yards area in a neighborhood that is a mix of residential, commercial and industrial structures. The area is close to the area rezoned for TOD at Boynton Yards. The City is planning a new re-zoning study in this area to begin in the fall of 2011.

Staff would note that the long-term planning goal for this area would be to pursue a re-zoning study. The zoning study may lead to the development of zoning regulations (similar to nearby TOD zones) that encourage combining parcels to pursue larger redevelopment project in this area. After the arrival of the Green Line, the area around Boynton Yards may allow valuable redevelopment opportunities that would encourage the consolidation of lots. Because of this, while staff believes that the re-division of this site into a logical pattern of lots meets all findings for a variance, the staff would like to continue to work with the owners of these lots in the rezoning of the remainder of the Boynton Yards area and ensure that they are open to partnering with the City to pursue redevelopment if or when it becomes appropriate.

5. Green Building Practices: n/a

6. Comments:

Ward Alderman: Has been contacted but has not provided comments

II. FINDINGS FOR VARIANCE (SZO §5.5.3):

In order to grant a variance for lot area per dwelling unit (§8.5.B) requirements the SPGA must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

Applicant justification: “Due to the shape of the subject property, the fact that it abuts the property at 46 Medford Street, and the fact that the building at 46 Medford Street was expanded approximately twenty years ago in accordance with a duly issued building permit resulting in an encroachment onto the subject property, a substantial hardship relative to the marketability and title to the subject property currently exists”

Staff Finding: The shape of the subject property includes a special circumstance, as it is awkward and it has the unique feature of having a portion of the building at 46 Medford Street located on the lot at 44 Medford Street. The impact of this lot configuration does not allow separate financing of either parcel and thereby creates a hardship.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

Applicant justification: “The variance, if approved, are the minimum necessary to relocate the property line between the two above referenced properties and to resolve the encroachment issue.”

Staff Finding: Staff finds that the proposed lot line configuration provide space for the 46 Medford Street building to be located completely on its lot and have adequate access to the sites of the building without needing access to the lot at 44 Medford Street. The space that remains on the lot at 44 Medford Street, just under 1500 square feet is the maximum lot area that can be available to this structure due to the existing site configuration. Therefore, this is the maximum lot area per unit available on the site and therefore the minimum variance necessary to establish one building on each lot at this location.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

Applicant justification: “The granting of the variances will correct an encroachment issue that has existing for many years thus achieving marketability and will not result in any change or modification to existing buildings. The existing conditions of the structures will not change consequently there will not be any detriment of affect to the neighborhood or the public welfare.”

Staff Finding: Staff finds that the division of this site into lots where one building is on each lot will have no material change to the neighborhood at all, and therefore cannot be detrimental. Any change to either structure would likely require special permits, as both would remain non-conforming structures on these lots. The variance achieves the goal of providing a more logical division of land on this site while retaining existing structures as they have been for many years.

III. RECOMMENDATION

Variance under §5.5

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **VARIANCE** from lot area per dwelling unit requirements.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is to establish a lot with the existing structure at 44 Medford Street separate from the lot with the structure at 46 Medford Street, by permitting a variance from the lot area per dwelling unit while maintaining the existing configuration of the structures.</p> <p>This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>3/31/2011</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>12/8/2010 signed 3/31/11</td><td>Plan submitted to OSPCD (Subdivision of Land Plan)</td></tr></table> <p>Any changes to the approved use or elevations that are not <i>de minimis</i> must receive ZBA approval.</p>	Date (Stamp Date)	Submission	3/31/2011	Initial application submitted to the City Clerk's Office	12/8/2010 signed 3/31/11	Plan submitted to OSPCD (Subdivision of Land Plan)	BP/CO	PIng.	
Date (Stamp Date)	Submission									
3/31/2011	Initial application submitted to the City Clerk's Office									
12/8/2010 signed 3/31/11	Plan submitted to OSPCD (Subdivision of Land Plan)									
2	<p>Any application for future exterior changes to these structures shall be subject to the zoning in effect at the time of that application. No permission is granted through this approval to alter or expand either structure.</p>	Cont.	ISD							
3	<p>The applicant shall submit the subdivision of land plan to the Planning Board for review immediately after approval of the variance, and shall follow all required procedures and/or conditions for approval of the subdivision under the SZO provisions for Site Plan Review/Subdivision</p>	Approval of Variance	PIng.							