



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

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Case #: ZBA 2015-34
Site: 198 Central Street
Date of Decision: October 7, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: October 20, 2015

ZBA DECISION

Applicant Name:	Dean Casassa
Applicant Address:	13 Highland View Avenue, Winchester, MA 01890
Property Owner Name:	Dean Casassa
Property Owner Address:	13 Highland View Avenue, Winchester, MA 01890
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant and Owner, Dean Casassa, seeks a Special Permit under SZO §8.5 to expand a nonconforming story height to go from 3 to 3 ½ stories and a Special Permit to alter a nonconforming structure under SZO §4.4 to expand a nonconforming FAR.
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<u>Zoning District/Ward:</u>	RA zone/Ward 5
<u>Zoning Approval Sought:</u>	§8.5 & §4.4
<u>Date of Application:</u>	June 11, 2015
<u>Date(s) of Public Hearing:</u>	7/15, 8/5, 8/19, 9/2, 9/16 & 10/7/15
<u>Date of Decision:</u>	October 7, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-34 was opened before the Zoning Board of Appeals at Somerville City Hall on July 15, 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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DESCRIPTION:

The proposal is to add an additional story height in a mezzanine level to make the building 3 ½ stories. By creating a mezzanine and finishing parts of the basement, the application also includes expanding a nonconforming FAR. The following is a recent building permit history of the subject property:

Issued	B14-000488	Electrical service, HVAC, remodel 1 st floor kitchen, bath, and basement bath
Issued	B14-000893	Demo existing kitchen and bath, replace hot water heater, w/HVAC, upgrade electrical and fire.
Issued	B14-001320	Roof
Issued (Electrical Permit)	E15-000137	Rewire units, 7 bed, 3 kitchens, 5 baths
Issued (Plumbing Permit)	P15-000162	Rough and finish plumbing 3-family
Issued (Gas Permit)	G15-000159	Rough and finish gas 3-family
Rejected*	B15-000336	Remove 1 st floor rear deck and replace it w/stairs to 2 nd floor

*Rejected until SP approval of ZBA Case 2015-23 appeal period expires and decision recorded.

Of the building permits issued none described or submitted drawings of the additional story height and finished basement area beyond the existing bathroom. During routine inspections for the building permits issued the mezzanine was discovered.

FINDINGS FOR SPECIAL PERMIT:

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 story height of the district, 2 ½ stories are allowed and the building has 3 stories. In addition, the building has an existing FAR of 1.37 where .75 is allowed.

The proposal will impact the following nonconforming story height of the building and floor area ratio. The row house is currently 3 stories and 37' in height. During demolition, the property owner wanted to maximize existing space provided in the envelope and added a mezzanine. This maintains the height of the building but adds an additional story. It also adds to the net floor area which increases the FAR. This alteration to 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 "[l]awfully 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 of the SZO, the Board finds that the additional story height proposed will not be substantially more detrimental to the neighborhood than the existing structure. The subject property is already nonconforming to the height of the RA district which is 2 ½ stories.

In considering a special permit under §4.4 of the SZO, the Board finds that the additional floor area in the basement will not be substantially more detrimental to the neighborhood than the existing structure. Finishing the basement is typical for a way to expand living area in substitute of a storage area that does not encourage an increase in story height.

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 and to providing adequate light and air.

The proposal is consistent with the purpose of the RA district, which is, “To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” This property is an existing three-family home and its modification is in keeping with the purposes of the district.

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 residential with a mix of building forms, this block of Central Street has beautiful, well-preserved houses. The subject property is near Broadway on the top of Winter Hill. There are a few religious buildings nearby including Temple Bnai Brith and Vida Real.

To expand the story height will not be impactful on the neighborhood because the massing of the building will not change. Also the quality of the interior with the ceiling height proposed is not changing greatly because there is already storage in this location.

5. 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.*



The property is in an area that is marked as to be preserved. The Board finds that because the change in the number of stories is internal and does not impact the massing of the structure, the proposal is not counter to SomerVision.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Anne Brockelman, with Josh Safdie absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino 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 internal addition of a floor to create a 3 ½ story structure and to add net floor area to the basement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 11, 2015 & revised June 26, 2015</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>March 31, 2015</td><td>Modified plans submitted to OSPCD (E1.0 Existing Floor Plans, E1.1 Existing Section Elevations)</td></tr><tr><td>May 31, 2015</td><td>Modified plans submitted to OSPCD (A1.0 Proposed Plans, A1.1 Proposed Section Elevations)</td></tr></table>				Date (Stamp Date)	Submission	June 11, 2015 & revised June 26, 2015	Initial application submitted to the City Clerk's Office	March 31, 2015	Modified plans submitted to OSPCD (E1.0 Existing Floor Plans, E1.1 Existing Section Elevations)	May 31, 2015	Modified plans submitted to OSPCD (A1.0 Proposed Plans, A1.1 Proposed Section Elevations)
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May 31, 2015	Modified plans submitted to OSPCD (A1.0 Proposed Plans, A1.1 Proposed Section Elevations)											
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	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
Anne Brockelman, (Alt.)

Attest, by the Administrative Assistant:

Dawn M. PereiraCopies 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 _____

