



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

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2015-99
Site: 74 Chandler Street
Date of Decision: December 9, 2015
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 17, 2015

ZBA DECISION

Applicant Name:	Roger Greene
Applicant Address:	185 Morrison Avenue, Apt. 202, Somerville, MA 02144
Property Owner Name:	Evelyn V. Moreno, Trustee, Nixon Peabody, LLP
Property Owner Address:	100 Summer Street, Boston, MA 02110
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Roger Green, and owner, Evelyn V. Moreno, Trustee of the Sound Realty Trust, seek a Special Permit per SZO §4.4.1 to alter a non-conforming structure by constructing a dormer within the side yard setback, installing new windows of a different size and location within the side yard setback and building new front steps within the front yard setback.
----------------------	--

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 5, 2015
<u>Date(s) of Public Hearing:</u>	December 9, 2015
<u>Date of Decision:</u>	December 9, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-99 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on December 9, 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.



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

DESCRIPTION:

The proposal includes the removal of the existing shed dormer on the east elevation and the construction of a larger, gabled dormer slightly relocated on the same roof face. New windows of a different size and location within the side yard setbacks are proposed as is a new set of front steps to be built within the front yard setback.

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 §4.4.1 of the SZO. This section of the report goes through §4.4.1 in detail.

1. **Information Supplied:**

- The Board finds that the information provided by the Applicant conforms to the requirements of §4.4.1 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 non-conforming with respect to the front and side yard setbacks.
- The current right yard setback is 3.5 feet in a district where a minimum 10-foot setback is required. The applicant proposes retaining this setback when the new dormer is constructed on the attic level.

The current front yard setback is 12.6 in a zone where a 15-foot setback is required. The applicant proposes retaining this same setback when the front steps are rebuilt in a new location on this elevation.

- These intensifications of the existing non-conformities require the Applicant to obtain a Special Permit 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 of the SZO, the Board finds that the alterations proposed to this legal 2 ³/₄ single-family residence would not be substantially more detrimental to the neighborhood than those present on the existing structure. Many of the other structures on the street are similarly styled with front steps in the front yard setback and dormers within the side yard setbacks.



- The use of a dormer to gain head height for a staircase is not uncommon and is consistent with several properties abutting 74 Chandler. The rebuilding of the east gable to accommodate the head height needed for a new staircase remains consistent in purpose and the use of a gable roof is more sympathetic to the style of house than the current shed dormer.

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 secure safety from fire, panic and other dangers; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels.
- The proposal is consistent with the purpose 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 comprised of a mixture of single and 2-family structures and some 3-family conversions. The form, size, and massing of these structures are all similar and present a cohesive streetscape whose architectural designs are variations on the same theme.
- There are few to no impacts from the proposal. The proposed changes are compatible with the use, form, and massing of the residential structures in the immediate area. The proposed changes are reasonable accommodations to make in order to allow for the property owner to make reasonable modifications to their home.

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

- The proposal will not impact the existing stock of 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 proposal will not contribute to the metrics of SomerVision but will allow the property owner to make some modifications to their home.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Josh Safdie and Anne Brockelman with Danielle Evans and Richard Rossetti absent. Upon making the above findings, Elaine Severino made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is to construct a dormer within the right side yard setback.	BP/CO	ISD/ Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Nov. 4, 2015</td><td>Initial submission to City Clerk</td></tr><tr><td>November 19, 2015</td><td>Updated plans submitted to Planning Office</td></tr><tr><td>November 23, 2015</td><td>Final plans submitted to Planning Office</td></tr><tr><td>November 25, 2015</td><td>Hard copies of final plans submitted to Planning Office</td></tr></table>				Date (Stamp Date)	Submission	Nov. 4, 2015	Initial submission to City Clerk	November 19, 2015	Updated plans submitted to Planning Office	November 23, 2015	Final plans submitted to Planning Office	November 25, 2015	Hard copies of final plans submitted to Planning Office
	Date (Stamp Date)				Submission									
	Nov. 4, 2015				Initial submission to City Clerk									
	November 19, 2015				Updated plans submitted to Planning Office									
	November 23, 2015				Final plans submitted to Planning Office									
November 25, 2015	Hard copies of final plans submitted to Planning Office													
<u>Any changes to the approved plan that are not <i>de minimis</i> must receive ZBA approval.</u>														
Construction Impacts														
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	The design and layout of the windows (including the repositioning of the original, stained glass window), doors, and fenestration shall be executed exactly as rendered in the 11-25-2015 plans. ZBA 12/9/2015: A replica of the original stained-glass window may be made and installed in the same location as that identified on the approved plans.	ISD	ISD/Plng	
Miscellaneous				
5	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Cont.	ISD	
6	The basement area shall never be used as/converted to a bedroom.	Cont.	ISD	
Public Safety				
7	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
8	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*
Elaine Severino
Josh Safdie
Anne Brockelman (Alt.)

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 _____

