



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-08

Date: August 1, 2013

Recommendation: Special Permit-
Conditional Approval, ~~Variance~~ ~~Denial~~

UPDATED PLANNING STAFF REPORT*

Site: 47 Fairmount Ave

Applicant Name: Richard G. Di Girolamo

Applicant Address: 424 Broadway Somerville, MA 02145

Property Owner Name: Edward C. Dolan

Property Owner Address: 4 Arline Drive North Reading, MA 01864

Alderman: Robert Trane

Legal Notice: Applicant, Richard Di Girolamo, and Owner, Edward Dolan, seek a Special Permit under SZO §4.4 to alter an existing 3-family dwelling to make alterations such as a second story front porch, expanded dormer, and window and door alterations. The Applicant seeks a Variance to build a third story with the construction of a dormer under SZO §5.5. RA Zone. Ward 7.

Zoning District/Ward: RA Zone / Ward 7

Zoning Approval Sought: Special Permit per §4.4 & ~~Variance per §5.5~~

Date of Application: February 11, 2013

Dates of Public Meeting - Zoning Board of Appeals – June 19, 2013

*This report was updated since the staff report dated June 13, 2013. The changes in the plans since this report are noted by underlined additions and ~~struck~~ deletions.

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a 2 ½ story legal 3-family dwelling on a 5,525 square foot lot. The 2 ½ story front structure, is connected by a deck to a rear 1 ½ story structure. The front structure has two, 2 bedroom units and the rear structure has 2- 2 car garages and another 2 bedroom unit. The rear structure has a small shed and gable dormer. The majority of the lot is paved. It is located in a Residential A (RA) zone.

There has been prior zoning review of this address. In 1995, a special permit and variance was granted to convert from a 2-family to a 3-family dwelling unit and a variance because it did not meet the lot area per dwelling unit requirement (ZBA 1995-24 and PB 1995-26). There is a Certificate of Occupancy dated February 17, 2000 for a 3-family dwelling.

From the decision dated July 26, 1995, "The subject property is a 2 ½ story, 2-family structure situated on three lots containing a total of 5,500 square feet. The building is an old farm house with an enclosed breezeway which connects a structure at the rear of the site which was once a barn. This barn has been converted to a garage, and the second floor hay loft has been turned into a large family room with a bathroom."

The Applicant and his uncle live in the second-floor unit of the existing two-family, his parents and a brother live in the first floor unit. A son will live in the proposed third unit which will be created in the hay loft, over the garage. The construction includes the addition of interior walls to create a kitchen and two bedrooms within the current second floor garage space, the construction of an exterior access staircase over the breezeway, and the installation of an exterior spiral staircase as a second means of egress to the proposed unit."

Since the Applicant exercised the Special Permit and Variance approval of cases ZBA 1995-24 and PB 1995-26, this has been a legal 3-family with a rear unit.



Existing (Pre-Construction) Southwest Elevation

2. Proposal: The Applicant proposes to legalize the alterations made in the Summer/Fall of 2012 to the non-conforming three-family dwelling unit. There are several building permits associated with this renovation from new footings and exploratory demo. The dormer was shown in plan and section on the building permit plan set but not called out in the written portion of the application. It was not until the applicant requested a permit to change a window to a door, add a platform, and a canopy for a second egress to Unit 1 that they were told by Inspectional Services that they needed a special permit for that renovation. In turn, the applicant submitted a Special Permit application on February 11, 2013 to change a window to a door, add a platform, and a canopy for a second egress from Unit 1. At that time, it was brought to the Planning Staff's attention that many of the alterations on the drawings required special permits or variances. With the exception of the original Special Permit item, the second egress from Unit 1, the work was already completed. On April 3, 2013 a stop work order was issued for the property citing §4.4.1 of the SZO, no certificate of occupancy has been issued. Planning Staff received a revised application to include the variance on May 3, 2013 revised drawings on July 24, 2013 showing a dormer reduced in size that requires a Special Permit.

The Applicant is seeking a Special Permit for the following completed renovations:

- A new second story porch on the front façade and the addition of a door to access said porch.
- An expanded dormer on the rear structure shown on the Southwest elevation.
- Removal of the garage door and the addition of a man door and 3 windows on the Southwest elevation
- New window on the Southwest elevation.
- New skylight on the rear structure on the Northeast elevation.

The Applicant is seeking a Special Permit for the following renovation (not constructed):

- A new canopy, platform, and window to door alteration on the Southwest elevation for a second egress to Unit 1.
- A new dormer on the front structure shown on the Southwest elevation (a dormer requiring a variance has already been constructed, the Applicant is proposing to reduce the size of the dormer).

~~The Applicant is seeking a variance for the construction of a dormer on the front structure.~~

These alterations are to accommodate a complete renovation and square footage expansion of three, 2-bedroom units. Two units are in the front structure and one unit is in the rear structure. There is no change in unit or bedroom count.



Front Structure



Rear Structure

3. Nature of Application: The structure and site is currently nonconforming with respect to several dimensional requirements including the side yard setbacks, lot area per dwelling unit, the minimum lot size, landscaped area and pervious coverage. Under the Somerville Zoning Ordinance (SZO) §4.4.1 nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered through a Special Permit. To expand the dormer on the rear structure, among other renovations, required a Special Permit.

~~A variance is required to construct the dormer on the front structure because it is a new nonconformity of the story dimensional requirement and floor area ratio requirement of the RA district per SZO §8.5 and §2.2.155. The building is now considered a 3-story per SZO definition of a Half Story §2.2.155 which states, "...Dormers may be constructed on the roof and exterior walls provided they are structurally supported on the roof rafters and the length of the dormer as measured between the lowest bearing points of the dorm on the rafters of the sloping roof does not exceed fifty percent of the length of the sloping roof to which it is attached." The dormer introduced new non-conformities to the site because of the length being more than 50% of the structure. The dormer increased the FAR from .75 to .80. The maximum FAR allowed in an RA district is .75.~~

No relief is required for parking. Two garage parking spaces were taken away to accommodate a square footage expansion of Unit 3. The parking is accommodated onsite but three spaces are now surface parking, the previous design had only one surface space.

4. Surrounding Neighborhood: The existing structure, just outside of Teele Square, matches the other structures in the neighborhood which are mostly 2 ½ story homes. However, 2 triple deckers are at 51 and 55 Fairmount Avenue. There are two- and three-family residences on the street. Most of the homes on Fairmount Avenue have a shed or gable dormers.

5. Impacts of Proposal: The interior renovations to the properties made the 3 units more desirable by changing layouts and increasing bathroom counts in each unit (now 1.5 to 3 bathrooms per unit). The bedroom counts are the same (2 bedrooms in each unit). The construction of a dormer on the rear structure has not been detrimental to the existing structure. The dormer has been present since approximately the fall of 2012 and does not appear to negatively impact the immediate abutters. The dormer on the front structure is a typical request for Applicants seeking more usable space on tight lots. The dormer will maintain the form of the 2 ½ story structure from the front elevation.

The additional surface parking spaces are typical in the residential areas of Somerville.

~~The dormer creates a third story and alters the form of the 2 ½ story house. It also decreases the visual privacy of residents at 43 Fairmount Street.~~

6. Green Building Practices: None listed on the application.

7. Comments:

Fire Prevention: Has been contacted and has not provided comments.

Traffic & Parking: Traffic and Parking is concerned about multiple vehicles entering and exiting the site simultaneously. A condition of this report is that the Applicant work with Traffic and Parking to install directional signage for spaces A, B, and C regarding yielding to oncoming traffic. In addition, Traffic and Parking has concerns about snow removal being accommodated on-site.

Engineering: Has been contacted and has not provided comments.

Ward Alderman: Alderman Trane was contacted and has not provided comments.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4):

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 Staff 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.”

In considering a special permit under §4.4 of the SZO, Staff find that the alterations built would not be substantially more detrimental to the neighborhood than the existing structure. The second story porch, expanded rear structure dormer, reduced front dormer, and the window to door alterations, mainly on the southeast façade, allow for interior alternations that make the property more desirable. The front porches match existing conditions on Fairmount Street.

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 lessen congestion in the streets; to prevent the overcrowding of land; and to conserve the value of land and buildings.

The proposal is consistent with the purpose of the district as an alteration to a residential property.

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 Applicant has increased the landscaping area from 8% to 10% and the pervious area from 16% to 19%. In both cases, the site still does meet the requirements of the SZO but both are improved. Since both dimensional requirements are not met, a recommended condition of this Special Permit is that the applicant installs a street tree.

There are five parking spaces accommodated on the site. Two in a garage, two at the rear lot line, and one near Unit 1. There is no turning radius on the site so most vehicles will back out of the 120’ long driveway. Planning Staff as well as Traffic and Parking have concerns regarding access and egress of vehicles to and from the 3 surface parking spaces. A condition of this report is that the Applicant will work with Traffic and Parking and install the appropriate regulatory signage. With the difficult parking scheme proposed, it is probable that the spaces proposed will go under utilized and tenants will park on the street.

~~III. FINDINGS FOR VARIANCE (SZO §5.5) ADDITION OF FRONT DORMER:~~

~~In order to grant a variance for dimensional requirements (§8.5) 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.”~~

~~There are no special circumstances related to soil, shape, or topography affecting the land or structures at 47 Fairmount.~~

~~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.”~~

~~The variances are the minimum variance necessary for a reasonable use of the building because it will remain a 3 family dwelling unit, the building footprint has not changed, and if more bedrooms are provided, family sized units will be provided, which are desired in the City. The applicant, in renovation of the property, hoped to create desirable family units that are larger than average for the neighborhood. In fact, the square footage for each unit was increased but there is no additional bedroom count for any unit, including Unit 2 which has the dormer which requires the variance. The City views family units as 3+ bedroom units that can accommodate a family of four. If the Board approves the variances, a recommended condition of approval is to accommodate a 3rd bedroom in Unit 2 to provide a family unit.~~

Family units also generally provide a place for a child to enjoy the outdoors. This property has very little outdoor space that is not dedicated to parking or parking aisles. If approved another recommended condition of approval of the variance is that the Applicant will work with Planning Staff to come into compliance with the pervious area dimensional requirements outlined in the SZO §8.5 so that some of the hardscape feels more like a play space and reduces runoff from the site.

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.”

The new dormer adds two dimensional non-conformities to the site: the building height and floor area ratio. The building is now considered a 3 story because the dormer is greater than 50% of the length of the sloping roof to which it is attached. The definition of half story is in place to preserve the architectural fabric of the City that is comprised of a great deal of 2 ½ story houses. Constructing a dormer that is greater than 50% of the roof length makes the roof become over-powered by the dormer and detracts from the original form and balance of the massing of the house.

The property is in a RA zoning district. As part of SomerVision, these areas are called out as “areas to conserve” because they are “great residential neighborhoods.” Although the renovations to the property including new siding and windows have been beneficial to the neighborhood, the variance for an increased height and density do not match this goal of the Comprehensive Plan and cannot be supported by the Planning Staff.

IV. RECOMMENDATION FOR SPECIAL PERMIT

Special Permit under §4.4

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for the Special Permit under SZO §4.4 to alter an existing 3-family dwelling to make alterations such as a second story front porch, expanded dormer on the rear structure, and window and door alterations. This approval does not include the Variance required for the dormer on the front structure. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>February 11, 2013</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>May 21, 2013</td><td>Modified plans submitted to OSPCD (Plot Plan)</td></tr><tr><td>May 17, 2013</td><td>Modified plans submitted to OSPCD (1-Unit 1 Existing and Proposed Plans, 2-Existing Plans, 3-Unit 2 Proposed Plans, 4-Unit 3 Existing Plans, 5-Unit 3 Proposed Plans, Sheets 6, 7, 8, 9, 10-Existing and Proposed Elevations)</td></tr><tr><td><u>Dates Vary (August 1, 2013)</u></td><td><u>Modified plans submitted to OSPCD (1-Unit 1 Existing and Proposed Plans, 3-Unit 2 Proposed Plans, 7-Existing and Proposed Elevations)</u></td></tr></table>				Date (Stamp Date)	Submission	February 11, 2013	Initial application submitted to the City Clerk’s Office	May 21, 2013	Modified plans submitted to OSPCD (Plot Plan)	May 17, 2013	Modified plans submitted to OSPCD (1-Unit 1 Existing and Proposed Plans, 2-Existing Plans, 3-Unit 2 Proposed Plans, 4-Unit 3 Existing Plans, 5-Unit 3 Proposed Plans, Sheets 6, 7, 8, 9, 10-Existing and Proposed Elevations)	<u>Dates Vary (August 1, 2013)</u>	<u>Modified plans submitted to OSPCD (1-Unit 1 Existing and Proposed Plans, 3-Unit 2 Proposed Plans, 7-Existing and Proposed Elevations)</u>
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Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	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											
Construction														
3	Applicant will reduce the size of the dormer on the front house to be less than 50% of the length of the front structure.	CO	PIng.											
Site														
4	Landscaping should be installed and maintained in compliance with the American Nurserymen’s Association Standards	Perpetual	PIng. / ISD											
5	Applicant will work with the Superintendent of Highways to install a street tree.	CO	PIng.											
Traffic & Parking														

6	Applicant will work with Traffic and Parking to install the appropriate regulatory signage.	CO	T&P	
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	
Final Sign-Off				
9	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.	

~~V. RECOMMENDATION FOR VARIANCE~~

~~Variance under §5.5~~

~~Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **DENIAL of the VARIANCE. If the Board chooses to approve the special permit and variance, Planning Staff recommends that the following conditions are attached to the approval in place of the conditions above.**~~

~~The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.~~

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1	Approval is for the Special Permit under SZO §4.4 to alter an existing 3-family dwelling to make alterations such as a second story front porch, expanded dormer, and window and door alterations and variance for the dormer on the front structure. This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/PIng.								
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2	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								
Construction											
3	Applicant will add a bedroom in Unit #2 to create a family-sized unit.	CO	PIng.								
Site											
4	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	PIng./ ISD								
5	Applicant will submit to Planning Staff a site plan complying with the Pervious Area dimensional requirements in the SZO §8.5	CO	PIng.								
6	Applicant will work with the Superintendent of Highways to install a street tree.	CO	PIng.								
Traffic & Parking											
7	Applicant will work with Traffic and Parking to install the appropriate regulatory signage.	CO	T&P								
Miscellaneous											

8	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				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
10	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.	

