



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

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DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2012-62

**Date:** September 27, 2012

**Recommendation:** Conditional Approval

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**UPDATED PLANNING STAFF REPORT<sup>1</sup>**

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Site: 5 Hall Avenue

Applicant Name: Hall Avenue, LLC

Applicant Address: 444 Somerville Ave, Somerville MA 02143

Property Owner Name: Hall Avenue, LLC

Property Owner Address: 444 Somerville Ave, Somerville MA 02143

Agent Name: Richard G. Di Girolamo, Esq.

Agent Address: 424 Broadway, Somerville, MA 02145

Alderman: Rebekah Gewirtz

Legal Notice: Applicant/Owner Hall Avenue, LLC in order to convert an existing structure into a 3-family dwelling seek a variance (SZO §5.5) for lot area per dwelling unit (§8.5.b) and special permit (§5.1) for alteration to a nonconforming structure (§4.4.1) to construct a 241 sf rear deck.

Zoning District/Ward: RB / 6

Zoning Approval Sought: Variance §5.5 & §8.5.b and Special Permit §5.1 & §4.4.1, §8.5.H

Date of Application: July 11, 2012

Dates of Public Hearing: Zoning Board of Appeals August 15, 2012

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a 2 ½ story dwelling on a 3862 sf lot. The structure was a three-family house; however, the Zoning Board of Appeals granted a permit in 1978 to convert the residence to a health clinic for the Somerville Mental Health Association, Inc. Two other nearby

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<sup>1</sup> Changes from the August 9 Staff Report include comments from the August 15 hearing and additional information and conditions related to the installation of a driveway. Changes from the August 9 report are underlined.



properties, 63 College Avenue and 78 College Avenue, were converted into the same use at that time. The case numbers were 1684, 1684A and 1684B.

*5 Hall Ave – front façade (l), location of proposed driveway (r)*



2. Proposal: The proposal is to reestablish the structure as a three-family dwelling. The only alteration to the structure that is required is the installation of a rear egress for each of the units. The proposal is to remove the rear stairs from the first story and construct a three story deck that is approximately 241 sf on each level. Doors will be constructed and windows shifted to accommodate the decks. There is currently no parking onsite and the original proposal did not include adding parking.

At the August 15 meeting of the Zoning Board of Appeals, the Board asked staff to investigate the possibility of installing a driveway at 5 Hall Avenue in the side or rear yards. A curb cut would be required on Hall Ave for a driveway in the side yard. Staff checked with the Highway Department and after an initial review it appears that a curb cut could be possible off of Hall Ave. The Applicant submitted a site plan showing driveway with room for two parking spaces.

To place a driveway in the rear yard, access would need to be possible via the alley that runs along the back of the property onto College Ave. From the information that we have been able to gather thus far, it does not appear that access would be possible off of the alley in the rear of the property. The street maps at the Engineering Department do not show ownership of this land and the City does not maintain the alley. It appears that the alley functions as an exit driveway for the church parking lot that abuts it.

3. Nature of Application: Under Somerville Zoning Ordinance §7.11.1.b, the three-family use is an allowed use; however, the lot size is not large enough to comply with the lot area per dwelling unit requirement in the Residence B district of 1500 sf per dwelling unit. A lot size of 4500 is required for three units and the lot is only 3862 sf. When the property was converted from a three-family dwelling to

a mental health facility, it lost its grandfathered nonconforming status for lot area per dwelling unit. Therefore, the Applicant is seeking a variance from the lot area per dwelling unit requirement.

The structure continues to be nonconforming in terms of lot area, front yard setback and side yard setbacks. Alterations to nonconforming three-family structures require special permit approval under SZO §4.4.1. The deck will be within the required side yard setback, 1.4 feet from the side lot line.

No additional parking is required for this use. The mental health use requires 1 space per 400 sf. The net square feet of the building is approximately 3503 which would require 9 parking spaces. Since the residential units will be one- and two-bedroom units, 1.5 parking spaces is required per unit for a total of 5 parking spaces. Under SZO §9.4.1, when a use is nonconforming in terms of the parking requirements and a change in use occurs that requires less parking with no change in the floor area of the building, no additional parking is required.

4. Surrounding Neighborhood: The types of uses in the surrounding area are one-, two-, three- and multi-family homes as well as a few religious institutions. The Somerville Mental Health Association purchased two other dwellings in the immediate vicinity when the Association purchased 5 Hall Avenue. The house is the same form as many houses in the area. The rear yard of the subject property abuts a 12 foot wide alley owned by the City.

5. Impacts of Proposal: The change in use to a three-family structure is not anticipated to negatively impact the neighborhood. The use of the property as a mental health association likely had more negative impacts with the quantity of people visiting the site than it will as a three-family structure. The property is close to multi-family homes and larger apartment buildings that do not have large lots and therefore the density, although not conforming to the Zoning Ordinance, is not out of character with the neighborhood.

The rear three-story deck is a typical feature on a Somerville home. The rear yard will continue to have a grassy yard for rainwater percolation and for the residents of the building will have yard space. The property abuts an alley in the rear and the neighbors on either side of the subject property do not have structures that would be impacted by the decks.

The installation of a driveway at the site will remove one on-street parking space that can be used by many for two private spaces. If the neighbors prefer that the driveway is installed and the ZBA decides to condition the approval on the installation of a driveway, the condition shall include specifications for creating a pervious and attractive driveway as it will be replacing a fairly large grassy side yard that is quite visible.

The house is currently not well maintained but after renovations it will be cleaned up in order to convert it to a three-family house. The beautiful dental and other detailing on the house should be preserved when the decks are added and the building is restored.

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

7. Comments:

*Fire Prevention*: Has been contacted but has not provided comments.

*Ward Alderman*: Alderman Gewirtz asked if notice was sent to the neighbors and if they had any concerns. No comments from neighbors have been received before the August 15 staff report was issued.

*Wiring Inspector:* An exterior light and receptacles are required. If this stair is the egress for the units it shall require emergency lighting. Conversion to three units could also require service upgrade and addition of public meter.

*Inspectional Services Division:* The roof over the third floor rear egress door will be required. The treads and raisers of the rear stairs shall have a rise of 7 in and a run of 11 in. The plans submitted for building permit must have this detail. If the proper dimensions require the stairs to project beyond where they are shown on the elevation, the plans may need to be altered, which may require a revision to the application.

*Comments from August 15 hearing:* Four neighbors spoke at the hearing. Two neighbors stated that they did not support the house being a three-family dwelling and three felt that parking for the use was an issue.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & 5.1):**

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 proposed would not be substantially more detrimental to the neighborhood than the existing structure. The rear three-story deck is a typical feature on a Somerville home. The house sits very close to the property line and the decks will be pulled back 1.5 feet from the property line. The property abuts an alley in the rear and the neighbors on either side of the subject property do not have structures that would be impacted by the decks.

The requirement for the rear egress door to have a roof over it may require that the door location shift so that the roof covers the door. The roof over the door shall not disrupt the eave of the house in order to accommodate the door location as it is shown on the plans.

The installation of a curb cut and driveway for two parking spaces meets the Highway Department requirements. The installation of a driveway at the site will remove one on-street parking space that can be used by many for two private spaces. If the neighbors prefer that the driveway is installed and the ZBA decides to condition the approval on the installation of a driveway, the condition shall include specifications for creating a pervious and attractive driveway as it will be replacing a fairly large grassy side yard that is quite visible.

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 providing for and maintaining the uniquely integrated structure of uses in the City and conserving the value of land and buildings.

The proposal is consistent with the purpose of the Residence B zoning district as three-family homes are to be established and preserved in this 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 three-story deck is designed in a way that it is compatible with the structure and surrounding area. The rear yard will continue to have a grassy yard for rainwater percolation and for the residents of the building to have yard space. The house is not well maintained and the new owner will clean up the property in order to convert it to a three-family house. The beautiful dentals and other detailing on the house should be preserved when the decks are added and the building is restored.

### **III. FINDINGS FOR VARIANCE (SZO §5.5, §8.5.I)**

In order to grant a Variance the Board 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 special circumstances related to the lot that cause financial hardship. The property owners are not able to expand the lot by subdivision because the abutting lots would become more nonconforming if they were reduced in size. The back of the property abuts an alleyway that cannot be reduced in width to add more square footage to the subject lot. The structure is built as a three-family dwelling and would only need a rear egress to meet current building code egress requirements. Removing one of the units would require a large amount of renovation that would cause financial 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."

Prior to the use of the property by the Somerville Mental Health Association, the building functioned as a three-family dwelling. The interior and exterior form of the building has not changed. It is a reasonable use of the building and land in a Residence B zoning district to use it in its current form as a three-family dwelling.

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 proposal is in harmony with the purpose and intent of the Ordinance. A three-family use is consistent with the purpose of the Residence B zoning district. The property would become less nonconforming by changing from a health center back to a residence. The property is located in an area with multi-family residences that do not meet the lot area per dwelling unit requirements and they are not detrimental to the public welfare or out of character with the neighborhood. Having one additional unit at the property

beyond what the lot area per dwelling unit allows in a structure that was built as and functioned as a three-family dwelling would not be detrimental.

#### IV. RECOMMENDATION

##### Special Permit under §4.4.1 & 5.1 and 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 CONDITIONAL APPROVAL of the requested SPECIAL PERMIT and VARIANCE.

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 establishment of a three-family dwelling and the construction of a rear three-story deck. 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>July 11, 2012</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(July 19, 2012)</td><td>Plans submitted to OSPCD (Existing and Proposed Elevations)</td></tr><tr><td>June 29, 2012 (July 19, 2012) <u>Revised 8/24/12</u></td><td>Plans submitted to OSPCD (Site Plan)</td></tr><tr><td>May 14, 2012 – revised 7/27/12</td><td>Plans submitted to OSPCD (Existing floor plans – no change as part of proposal)</td></tr></table>				Date (Stamp Date)	Submission	July 11, 2012	Initial application submitted to the City Clerk’s Office	(July 19, 2012)	Plans submitted to OSPCD (Existing and Proposed Elevations)	June 29, 2012 (July 19, 2012) <u>Revised 8/24/12</u>	Plans submitted to OSPCD (Site Plan)	May 14, 2012 – revised 7/27/12	Plans submitted to OSPCD (Existing floor plans – no change as part of proposal)
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Any changes to the approved elevations or use that are not de minimis must receive SPGA approval.														
2	An exterior light and receptacles are required for each level of the deck. If this stair is the egress for the units it shall require emergency lighting. Conversion to three units could also require service upgrade and addition of public meter.	CO	Wiring Inspect or											

3	The roof over the rear egress door shall not interfere with the eaves of the house. This door may move location slightly to accommodate the required roof that shall not be widened beyond the edge of the roof.	CO	Plng.	
4	The dentals and other façade details on the house shall be maintained.	CO	Plng.	
5	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
6	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	
7	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	
8	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	
9	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
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.	
11	<u>The Applicant or Owner shall install a driveway at the site as indicted on the site plan dated Jun 29, 2012 and revised Aug 24, 2012. The driveway shall be constructed of 2 strips of pavers on which cars will park with vegetative landscape areas in between and around the pavers.</u>	<u>Final sign off</u>	<u>Plng.</u>	



