



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2015-111
Site: 221 Highland Avenue
Date of Decision: February 3, 2016
Decision: Petition Approved with Conditions
Date Filed with City Clerk: February 17, 2016

ZBA DECISION

Applicant Name:	Adrian M.K. Hartline
Applicant Address:	221 Highland Avenue, Unit 2, Somerville, MA 02143
Property Owner Name:	Adrian M.K. Hartline
Property Owner Address:	221 Highland Avenue, Unit 2, Somerville, MA 02143
Agent Name:	Sarah Foster
Agent Address:	221 Highland Avenue, Unit 2, Somerville, MA 02143

Legal Notice: Applicant, Adrian M.K. Hartline, a.k.a Adrian Kucera-Hartline, seeks a Special Permit per SZO §4.4.1 to alter a non-conforming structure by constructing a dormer within the left side yard setback.

<u>Zoning District/Ward:</u>	RC zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 14, 2015
<u>Date(s) of Public Hearing:</u>	1/20 & 2/3/16
<u>Date of Decision:</u>	February 3, 2016
<u>Vote:</u>	5-0

Appeal #ZBA 2015-111 was opened before the Zoning Board of Appeals at Somerville City Hall on January 20, 2016. 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 includes the addition of a shed dormer within the left side yard setback. Since the initial January 20, 2016 ZBA hearing, the applicant has re-submitted plans that include glass block for the proposed new windows. Further, the dormer has been moved back 2' 1" from the gable end of the roof on which it is proposed to be built.

FINDINGS FOR SPECIAL PERMIT (SZO §):

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 property has several non-conformities, but the one triggering the Special Permit is the left side yard setback. These intensification of the existing non-conforming left side setback requires the Applicant to obtain a Special Permit under §4.4.1 of the Somerville Zoning Ordinance (SZO).
- The current left side yard setback is 1.6 feet in a zone where a minimum 10 foot setback is required. The lowest point of the dormer will sit within the left side yard setback at 1.6 feet from the property line.
- At the January 20, 2016, ZBA hearing, some members of the ZBA questioned if the initial proposal had been presented in compliance with our planning/zoning standards and if we routinely measured the length of roof from the ridge or the eave. A meeting with the Planning Director, Senior Planner and Zoning Review Planner confirmed the following:
 - a) Length of roof is measured from the eave;
 - b) The initial proposal was 50% or less of the roof length;
 - c) The existing roofline extends just beyond the left gable at the eave providing a longer roofline with which to work;
 - d) Because this is an RC district, the dormer is considered a "3rd story" and 3 stories are allowed in this district.

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 ¾ single-family residence would not be substantially more detrimental to the neighborhood than those present on the existing structure. Many of the other structures in the



immediate surrounding area present dormers of varying sizes and styles within the side yard setbacks. Moreover, the abutting property immediately to the left has a long shed dormer within their right side yard setback that overlooks 221 Highland.

- The addition of this dormer will allow for reasonable expansion of head height in a bathroom area and will not increase the FAR. The dormer addition will also allow for additional head height in the existing stairwell. This is a reasonable accommodation to make for a unit with minimal room for expansion.

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 RC district which is "...to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents 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 a mixture of two- and three-family structures, residential conversions, condos and apartments of varying late 19th and early 20th-century styles, but with similar massing.
- 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, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. 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 to construct a dormer within the left side yard setback.	BP/CO	ISD/ Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>December 14, 2015</td><td>Initial submission to City Clerk</td></tr><tr><td>January 27, 2016</td><td>Revised plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	December 14, 2015	Initial submission to City Clerk	January 27, 2016	Revised plans submitted to OSPCD
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	December 14, 2015				Initial submission to City Clerk					
January 27, 2016	Revised plans submitted to OSPCD									
<u>Any changes to the approved plan that are not determined to be de minimis by Planning Staff 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 size, form, massing and design of the dormer shall match exactly the plans that are included with this report and that are in the case file for this project. Any changes to these plans must be reviewed and approved by the Planning Staff or the ZBA before they are executed.	ISD	ISD/Plng							
5	Because the new windows are less than 3 feet from the property line, the Applicant is required to install glass block instead of typical, double-hung windows. The glass block installation shall be framed to mimic the appearance of a true window opening.	ISD	ISD/Plng							
Miscellaneous										



6	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and property.	Cont.	ISD	
7	The basement area shall never be used as/converted to a bedroom.	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.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

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 _____

