



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

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Case #: ZBA 2015-64
Site: 88 Jaques Street
Date of Decision: September 16, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 3, 2015

ZBA DECISION

Applicant Name:	Vincenza Fodera
Applicant Address:	134 Mystic Avenue, Medford, MA 02155
Property Owner Name:	Ciross Properties, LLC
Property Owner Address:	134 Mystic Avenue, Medford, MA 02155
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant, Vincenza Fodera, and Owner, Ciross Properties, LLC, seek a Special Permit to alter a nonconforming and illegal three-family structure per SZO §4.4.1. by adding a third floor.
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<u>Zoning District/Ward:</u>	RB zone/Ward 4
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	August 13, 2015
<u>Date(s) of Public Hearing:</u>	September 16, 2015
<u>Date of Decision:</u>	September 16, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-64 was opened before the Zoning Board of Appeals at Somerville City Hall on September 16, 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 developer is proposing to convert the basement apartment to storage and bicycle parking; remodel the first floor three-bedroom unit and add a second bathroom; remodel and convert the second floor four-bedroom unit into a three-bedroom unit and add a second bathroom; and add a full third story three-bedroom unit with two bathrooms. The proposed third story demolishes the existing gabled roof, and adds a mansard roof with dormers. The proposal converts a portion of the rear yard to accommodate two new parking spaces constructed from pervious pavers. The proposal also replaces the existing fire escape at the rear of the building, updating it to meet code, and extending it to provide egress for the third story unit.

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 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 following dimensional requirements per SZO §8.5: side yard setback. The proposal will not change the nonconforming dimensions of the setback, but the alteration to a nonconforming structure requires the Applicant to obtain a special permit under §4.4.1 of the SZO. In considering a special permit under §4.4 of the SZO, the Board finds that the proposed alterations and use would not be substantially more detrimental to the neighborhood than the existing structure. The largest physical component of the proposal is the conversion of the gable roof to a mansard roof. While this will increase the size of the structure, it will do so in a manner that is comparable to other neighborhood structures, and it will do so while conforming to the requirements of the SZO.

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 I, 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 maintain the uniquely integrated structure of uses in the City; and encouraging the most appropriate use of land throughout the City."

The proposal is consistent with the purpose of the district (6.1.2. RB - Residence Districts), which is to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.

4. **Site and Area Compatibility:** *The Applicant has to ensure that the project "is designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

The proposed addition to the existing two-family structure is compatible with the characteristics of the surrounding neighborhood and would have a minimal impact, if any, on the surrounding area. Furthermore, it does not appear



that the proposed addition would greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. Even with the proposed third story addition, the building would maintain a height and massing that is comparable to structures in the surrounding area.

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

No adverse environmental impacts are anticipated from this proposal. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the project.

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

No adverse impacts on the existing stock of affordable housing are anticipated.

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.*

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	2	3
<i>Parking Spaces:</i>	2	4



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 for the Alteration of the nonconforming structure to add a third floor. 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>(August 13, 2015)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(August 13, 2015)</td><td>Modified plans submitted to OSPCD (1-11)</td></tr><tr><td>(August 26, 2015)</td><td>Modified plans submitted to OSPCD (1-13)</td></tr></table>				Date (Stamp Date)	Submission	(August 13, 2015)	Initial application submitted to the City Clerk’s Office	(August 13, 2015)	Modified plans submitted to OSPCD (1-11)	(August 26, 2015)	Modified plans submitted to OSPCD (1-13)
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Any changes to the approved (site plan or elevations/use) that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
Construction Impacts												
2	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									
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	An exterior light is required for all levels of the porch.	Final sign off	Wiring Inspector									
5	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP									
Final Sign-Off												



6	The Applicant shall remove the entire asphalt driveway and replace it with permeable pavers.	CO	ISD/Plng.	
7	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 _____

