



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2014-45
Date: August 27, 2015
Recommendation: Unable to Recommend

UPDATED PLANNING STAFF REPORT*

Site: 70 Lowden Avenue

Applicant Name: John Tucci
Applicant Address: 2 Martin Street Burlington, MA 01803
Owner Name: Rudy Caruso
Owner Address: 70 Lowden Avenue Somerville, MA 02144
Alderman: Rebekah Gewirtz

Legal Notice: Applicant, John Tucci, and Owner, Rudy Caruso, seek a Special Permit per SZO §4.4.1 to alter a nonconforming structure to change rear porches to egress stairs. RA Zone. Ward 6.

Dates of Public Hearing: Zoning Board of Appeals – August 5, 2015

*This report has been updated since the report dated July 30, 2015. Additions have been underlined and deletions have been ~~struck~~.

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is an existing 2 ½ story 3-family home on a 3,606 square foot corner lot. There's a 2 car garage accessed from Kidder Avenue. In 1990, the property received a variance to legalize a 3rd dwelling unit that has existed since at least 1977.

The existing condition on the rear of the house is shown in photo below. In 1991, 70 Lowden was given a Certificate of Occupancy with the condition, "upon repairs to rear egress stairs, they must be made to conform to the current requirements of the Mass State Building Code." At that point, the building probably had two rear porches, a third floor with only one means of egress, and an internal staircase connecting the first and second floors at the back of the building. At some point the secondary egress stair



was closed to give more floor space. To remedy the condition, the owner built the current condition. To exit at the rear of the property there is a landing to a ships ladder/very narrow steep steps leading to the second floor porch. The second and third floor, in the case of an emergency, would egress onto the top of the garage and wait for assistance or jump. The first floor has egress from their rear porch between the house and the deck. The deck is connected to the garage.

There are no building permits for the rear egress stairs. It is Planning Staff's conclusion that the work done after the variance was granted in 1990 was done illegally to satisfy the condition of the certificate of occupancy. A permit would not have been issued because it did not comply with the building code in 1990. At this time, the quality of materials has deteriorated and an egress solution, that complies with building code, is needed for the safety of the residents.



2. Proposal: The proposal is to change rear porches on the second and third floor from porches to egress as well as add egress from the third floor. The first floor porch will be rebuilt. The garage will be downsized from two to one bay. There is still parking for two vehicles in the driveway.

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

4. Comments:

Ward Alderman: Alderman Gewirtz has been contacted and has no comments at this time.

II. 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 §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."*

The structure is currently nonconforming with respect to the narrow side yard. ~~The proposal will decrease the narrow sideyard from 3.6' to roughly a 1'.~~ The narrow sideyard will be extended but maintained at 3.6'. The rear yard will be narrowed from 18' to 15'. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully 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, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. ~~Planning Staff is recommending a condition as part of this report that the landings at the first and second floor be code minimum. This is to lessen the impact to the abutters by lessening the intrusion into the narrow side yard.~~ The project will create rear egress conforming to the building code and zoning. At the last hearing, neighbors expressed concern with the depth of the rear deck. The building code does not allow a spiral staircase as an exterior means of egress for a 3-family. To decrease the depth of the structure requires relocation of the doors to work with the stair run and the interior floor plans.

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 protect health; and to secure safety from fire, panic and other dangers.

The proposal is consistent with the purpose of the district, which is, "To establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts." The 3-family home has existed in the neighborhood for 25 years, the rear egress will be consistent with the neighborhood.

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 mix of one-, two-, and three-family uses in between Ball and Davis Squares.

The proposal will impact the side yard but is the best possible outcome for the health and safety of residents.

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

The project will have no effects on 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 project does not contribute to the metrics of SomerVision but does allow a homeowner to make modifications to their property.

III. RECOMMENDATION

Special Permit under §4.4.1

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff is unable to 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
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1	Approval is for the reconstruction and alteration of rear egress. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ PIng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>May 14, 2014</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>March 9, 2015</td><td>Modified plans submitted to OSPCD (Plot Plan)</td></tr><tr><td>July 16, 2015</td><td>Modified plans submitted to OSPCD (A101 Footing Plan, A102 First FP, A103 Second FP, A104 Third FP, A301 Side Elev, A302 Rear Elev, A303 Garage)</td></tr><tr><td>August 26, 2015</td><td>Modified plans submitted to OSPCD (A101 Footing Plan, A102 First FP, A103 Second FP, A104 Third FP, A301 Side Elev, A302 Rear Elev, A303 Garage)</td></tr></table>				Date (Stamp Date)	Submission	May 14, 2014	Initial application submitted to the City Clerk’s Office	March 9, 2015	Modified plans submitted to OSPCD (Plot Plan)	July 16, 2015	Modified plans submitted to OSPCD (A101 Footing Plan, A102 First FP, A103 Second FP, A104 Third FP, A301 Side Elev, A302 Rear Elev, A303 Garage)	August 26, 2015	Modified plans submitted to OSPCD (A101 Footing Plan, A102 First FP, A103 Second FP, A104 Third FP, A301 Side Elev, A302 Rear Elev, A303 Garage)
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Any changes to the approved plan or elevations that are not <i>de minimis</i> must receive SPGA approval.														
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	The rear decks/egress shall never be enclosed.	Perp.	PIng.											
5	The landings on the rear decks shall be limited to 36 inches to meet the code minimum and shall not project farther into the side yard.	BP	PIng.											
6	In no way can the deck/egress be connected structurally or cosmetically to the garage.	Perp	PIng.											
7	The area underneath the first floor deck shall be screened.	Perp	PIng.											
6														
Miscellaneous														

87	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	
Final Sign-Off				
98	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.	

