



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

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Case #: ZBA 2016-118
Site: 70 Lowell Street
Date of Decision: January 4, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 9, 2017

ZBA DECISION

Applicant Name:	Daniel Needleman
Applicant Address:	70 Lowell Street, Somerville, MA 02144
Property Owner Name:	Daniel Needleman
Property Owner Address:	70 Lowell Street, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant/Owner Daniel Needleman seeks a Special Permit under §4.4.1 for a second story and attic, for 1 additional bedroom, added to an existing 1-1/2 story 3-bedroom house.
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<u>Zoning District/Ward:</u>	RB zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	September 29, 2016
<u>Date(s) of Public Hearing:</u>	12/7/16 & 1/4/17
<u>Date of Decision:</u>	January 4, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-118 was opened before the Zoning Board of Appeals at Somerville City Hall on December 7, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The proposal is to remove the partial second/attic story to add a complete second floor and partial third floor to the existing brick first floor. The building will remain a single-family home but have 4 bedrooms with an exercise room and office with a south facing roof deck (on the Lowell Street frontage) at the third floor. The site will remain as is.

FINDINGS FOR SPECIAL PERMIT (SZO §5.4):

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 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."*

Nature of Application: RB - Residence Districts

The proposal will impact the following nonconforming use/dimensions:

Per Section 8.5 Table of Dimensional Requirements

	RB Required	Current	Proposed	NOTES
Lot Size	7500 s.f. min.	9164 s.f.	9164 s.f.	
Lot Area/Dwelling Unit	1500 s.f. min.	9164 s.f.	9164 s.f.	
Ground Coverage	50% max.	19%	19%	
Landscaped Area	25 min.	22%	61%	
Floor Area Ratio	1.00	0.23	0.32	
Height	3 stories max.	1	3	
Height	40 ft.	23 ft.	33 ft.	
<u>Front Yard (ft.)</u>	<u>15 ft.</u>	<u>13.8 ft.</u>	<u>13.8 ft.</u>	<u>non-conforming</u>
<u>Right Side Yard (ft.)</u>	<u>10 ft. (20' combo)</u>	<u>6.6 ft.</u>	<u>6.6 ft.</u>	<u>non-conforming</u>
<u>Left Side Yard (ft.)</u>	<u>10 ft. (20' combo)</u>	<u>5.57 ft.</u>	<u>5.57 ft.</u>	<u>non-conforming</u>
Rear Yard (ft.)	20 ft.	62.4 ft.	62.4 ft.	
<u>Frontage (ft.)</u>	<u>50 ft. min.</u>	<u>42.27 ft.</u>	<u>42.27 ft.</u>	<u>non-conforming</u>
Pervious Area (%)	35% min.	24%	66%	

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5." This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).



In considering a special permit under §4.4 of the SZO, the Board find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed structure, primarily 2 stories with a partial 3rd story, is scaled more appropriately to the adjacent buildings (2-1/2 to 3-story residential structures) than the existing 1-1/2 story cottage. The proposal has been designed to use the existing brick first floor and therefore remains within the existing non-conforming side and front setbacks. The enlarged single-family house will minimally impact the neighbors and will continue to be conforming to the other 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 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 promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide adequate light and air; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; and to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes.

The proposal is consistent with the purpose of the district, 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 "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

The surrounding Spring Hill neighborhood is predominantly residential and mostly two- or three- family structures, making this single-family property quite unique. The property is located between Kelley Park and the Dickerman Playground and approximately a three-minute walk to the businesses and bus stop on Somerville Avenue. The size of the large rear lot is another distinguishing feature that the Owner/Applicant intends to upgrade for personal use in the near future. The existing brick cottage is the unusual building on the street. As the adjacent properties are mostly two- and three-family homes, the proposed structure is scaled more appropriately to the adjacent 2-1/2 to 3-story residential buildings than the existing 1-1/2 story home.

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.*

The addition of a floor to this house will not pose any adverse environmental impacts to the neighborhood.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

As this proposal is remaining a single family home, there will be no circulation impacts on the surrounding area.

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

The proposal will not have any impact on the stock of affordable housing in the city. This is a single-family home that will remain a single-family home.



7. 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>	<u>Existing</u>	<u>Proposed</u>
<i>Dwelling Units:</i>	1	1
<i>Affordable Units:</i>	0	0
<i>Commercial Sq. Ft.:</i>	0	0
<i>Estimated Employment:</i>	0	0
<i>Parking Spaces:</i>	2	2
<i>Publicly Accessible Open Space:</i>	0	0

This part of Lowell Street is located in a "Conserve" area. This project supports the goals of SomerVision as the design will protect and enhance the form and character of the neighborhood.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Anne Brockelman absent. 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 addition of a floor to create a partial 3-story single-family house. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/ Planning								
	Date (Stamp Date)				Submission	September 29, 2016	Initial application submitted to the City Clerk’s Office	December 15, 2016	Modified plans submitted to OSPCD (G-001, EC-001, EC-101 & 102, EC-201, AD-001, AD-101 & 102, A-001, A-101 thru 103, and A-201 thru 203)	December 20, 2016	Modified plans submitted to OSPCD (landscape plan)
	Date (Stamp Date)				Submission						
	September 29, 2016				Initial application submitted to the City Clerk’s Office						
	December 15, 2016				Modified plans submitted to OSPCD (G-001, EC-001, EC-101 & 102, EC-201, AD-001, AD-101 & 102, A-001, A-101 thru 103, and A-201 thru 203)						
December 20, 2016	Modified plans submitted to OSPCD (landscape plan)										
Any changes to the approved drawing package that are not <i>de minimis</i> must receive SPGA approval.											
Pre-Construction											
2	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City’s Stormwater Management Policy.	BP	Eng.								
3	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng								
4	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD								
Construction Impacts											



5	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Planning	
6	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Continuous	Planning	Deed submitted & application form signed
7	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.	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	
Design				
9	Applicant shall provide final material samples and colors for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Planning	
10	An exterior light and electrical receptacle is required for all porches and decks.	Final sign off	Wiring Inspector	
Site				
11	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3 planted and maintained in compliance with the American Nurserymen's Association Standards, and in accordance with SZO §10.2.2 and §10.6.2	Perpetual	Planning / ISD	
12	The electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
13	All driveway aprons shall be concrete.	CO	Planning.	
Miscellaneous				
14	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.	Continuous	ISD	
Public Safety				
15	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
16	Any transformers should be located as not to impact the building or landscaped area, and shall be fully screened.	Electrical permits & CO		
17	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	Planning	

18	The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction.	CO	Planning /OSE	
Final Sign-Off				
19	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	Planning	



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. PereiraCopies 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 _____

