



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-135
Site: 152 Powder House Boulevard
Date of Decision: March 1, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 3, 2017

ZBA DECISION

Applicant Name:	152 Powder House, LLC
Applicant Address:	464 Common Street, Suite #322, Belmont, MA 02458
Property Owner Name:	152 Powder House, LLC
Property Owner Address:	464 Common Street, Suite #322, Belmont, MA 02458
Agent Name:	Richard G. DiGirolamo, Esq.
Agent Address:	424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, 152 Powder House, LLC, seeks Special Permits under §4.4.1 of the SZO to alter a non-conforming property by finishing the basement and increasing the FAR and a Special Permit under Article 9 of the SZO for parking relief.

<u>Zoning District/Ward:</u>	RA zone/Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 27, 2016
<u>Date(s) of Public Hearing:</u>	March 1, 2017
<u>Date of Decision:</u>	March 1, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-135 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on March 1, 2017. 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.



DESCRIPTION:

The Applicant proposes to finish the basement which will increase the FAR from .78 to .99 .

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 of the SZO. This section of the report goes through §5.1 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.

1. 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."*

Section 4.4.1 states that “[l]awfully existing one-and two-family dwellings which are only used as residences, which are non-conforming 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.”

The FAR for this property is currently non-conforming at .78 in a zone where .75 is the maximum allowed. The need for the Special Permit is triggered by the proposal to finish the basement which would increase the FAR to .99 . This is the only dimensional change to the property; all setbacks, building height and ground coverage percentages are expected to remain the same.

The existing basement is currently unfinished and houses the mechanical equipment for the two units (furnaces and oil tank). The existing basement ceiling height is 7’8” which is sufficient.

The proposal for the basement includes a family room, office and full bath for Unit One. A separate area of the basement will provide storage for each unit and separate furnaces. Although the proposed basement plans label one of the rooms as an “office,” Planning counts this space as a bedroom for parking purposes. As stated in Section 2.2.17 of the SZO, a bedroom is “...a private room for sleeping, however named, planned, intended or used, which is separated and can be closed off from other parts of the dwelling by walls and a door.”



Regarding Article 9 of the SZO

The current zoning code requires residential parking to be calculated based on bedroom count. Since the publication of the legal notice, it has been determined that the changes to the property do not trigger the need to additional parking relief. The explanation for this appears below:

Unit #	Existing Bedrooms	Old Parking Req.	Proposed Bedrooms	New Parking Req.
1	2	1.5	3	2.0
2	3	2.0	4	2.0

Total Old Parking Requirement: 3.5 spaces
 Total New Parking Requirement: 4.0 spaces

Formula to determine if parking relief is needed:

$$(\text{New Parking Requirement} - \text{Old Parking Requirement}) \times .5 = \# \text{ of spaces of relief}^*$$

In the case of 152 Powder House Boulevard:

$$(4.0 - 3.5) = .5$$

$$.5 \times .5 = .25 \text{ spaces of relief}$$

* if the resulting number is less than one or is a negative number, no further parking is required to be provided.

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, as conditioned by Staff, 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; and to encourage the most appropriate use of land throughout the City.

The proposal is also consistent with the purposes of the RA zoning district which are, as outlined in Section 6.1.1 of the SZO, "...to establish and preserve medium density 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 Applicant's proposal to overhaul the units, keeping the property a two-family, is in keeping with the RA zone.

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 presents numerous two-family residential structures in a variety of architectural styles typical of the turn-of-the-20th century period including modified gambrels, gable-fronted, and four-square among others. The surrounding neighborhood also contains a small number of single-family, modified three-family and triple decker residential buildings.



With the trigger for the special permit being the increase in the non-conforming FAR due to finishing the basement, The Board finds that such a change does not impact the characteristics of the surrounding built and unbuilt environment. Instead, the Board finds that the proposed change is a reasonable manner through which a property owner can gain additional living space without adding further massing to the property.

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

The proposal does not add to the City's affordable housing stock.

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 proposal contributes to SomerVision in that it improves a property in this neighborhood.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, Josh Safdie and Pooja Phaltankar with Josh Safdie and 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 to finish the basement, thus increasing the non-conforming FAR.	BP/CO	ISD/ PIng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 27, 2016</td> <td>Initial application submitted to city clerk's office</td> </tr> <tr> <td>February 14, 2017</td> <td>Updated plans received by OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 27, 2016	Initial application submitted to city clerk's office	February 14, 2017	Updated plans received by OSPCD
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ANY changes to the approved plans, other than those changes made specifically to conform with the conditions below, must first be submitted to the Planning Division to determine whether or not they are <i>de minimis</i> in nature or whether they require review by the SPGA.										
2	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 1 st to April 1 st and there is a list of streets that have additional opening restrictions.	BP	Eng/ISD							
3	The Applicant shall present their electrical plan to lights and lines/wiring for their review and approval prior to the issuance of a Building Permit.	BP	Wiring/ISD							
4	The Applicant shall provide the Traffic & Parking Division with a plan for construction traffic management for that division's review and approval prior to the issuance of a building permit. This plan shall include delivery windows for construction equipment and materials.	BP	T&P / ISD							
5	The Applicant shall present a demolition plan to the Inspectional Services Division (ISD) and shall follow that department's procedures for demolition and neighborhood notification thereof exactly.	BP	ISD							
6	The entire property is being overhauled. ALL materials used on the exterior of the structure including, but not limited to, siding, windows, trim, fencing, hardscape, decking, etc., shall be submitted to Planning Staff for their review and approval PRIOR TO the issuance of a building permit and prior to their installation.	BP	PIng/ISD							
Construction Impacts										



7	The applicant shall post the name and phone number of the general contractor and all sub-contractors at the site entrance where it is visible to people passing by.	During Construction	ISD	
8	For the convenience of and respect for the neighborhood, during the construction phase, construction work shall not begin prior to 7:30am and shall finish no later than 5pm Monday through Friday. There shall be no construction or construction-related work performed on weekends.	During Construction	ISD	
9	Deliveries to the construction site shall be limited to 9am to 3pm so as not to interfere with the comings and goings of neighborhood residents during peak commute times.	During Construction	ISD/T&P	
10	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont./perpetua l	Plng.	Deed submitted & application formed signed
11	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/ISD	
12	All construction materials and equipment shall 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 Division must be obtained.	During Construction	T&P	
13	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	ISD	
Design				
14	NO vinyl shall be used for clapboard, trim, decking, fencing, windows or the like.	CO	ISD/Plng	
15	Windows shall be two-over two, with muntins applied to the glass. No between-the-glass muntins shall be allowed. No reflective or tinted glass shall be used. Dark spacers shall be used. Window sash, muntins, casing, stile and rail shall be dark colored. Vinyl windows shall not be allowed.	CO	ISD/Plng	
16	All exterior lighting on the site shall be downcast and shall not, in any way, spill onto abutting properties.	Final sign off / Perpetual	Wiring Inspector	
17	Windows that are installed on any portion of the building that is 3 feet or less from the lot line shall be inoperable, fire-rated windows that comply exactly with ISD / building code requirements. The Applicant shall work directly and closely with ISD to ensure compliance.	CO/Perpetual	ISD/Plng	
18	All venting shall be painted or wrapped to match the color of the portion of the building from which it exits.	CO	ISD/Plng	



19	The sides of the Mansard roof shall present historically-appropriate proportions and curvature.	CO	ISD/Plng	
Site				
20	If the driveway and/or any on-side sidewalks are to be re-done, asphalt and concrete shall not be used. Pervious pavers, grasscrete or similar might be used but only after the proposed material samples have been submitted to Planning Staff for their review and approval prior to installation.	CO	ISD/Plng	
21	Because the entire property is being overhauled, the Applicant is required to submit a landscaping plan. Said plan must be submitted to Planning Staff for their review and approval prior to its installation.	CO	Plng/ISD	
22	ALL landscaping materials, including hardscape, shall be submitted to Planning Staff for their review and approval prior to installation	CO	ISD/Plng	
23	Since the entire property is being overhauled, a full landscaping plan must be submitted to Planning Staff for their review and approval prior to installation of plantings and hardscape.	CO	ISD/Plng	
24	A window well shall be added for egress in the basement office/study/bedroom.	CO / and Perpetual	ISD/Plng.	
25	All at-grade mechanical equipment shall be screened with evergreen vegetation (no arborvitae). Planning Staff shall approve vegetative screening prior to installation.	CO/Perpetual	ISD/Planning	
26	All trash and recycle areas shall be screened with cedar wood lattice or similar screening. Planning Staff shall approve such screening. No dumpsters shall be permitted on site (after the construction period is complete).	CO/Perpetual	ISD/Planning	
27	ALL utilities shall be buried underground	CO/Perpetual	Lights & Lines	
Public Safety				
28	The Applicant and/or Owner(s) shall meet the Fire Prevention Bureau's requirements.	CO	FP	
29	All smoke/fire detectors shall be hard-wired.	CO	FP/ISD	
30	As per Somerville regulations, no grills or similar cooking/heating apparatus shall be permitted on decks. Condo docs or rental agreements shall state as such.	Perpetual	ISD/FP	
31	All lighting on the property shall be downcast and shall not cast/spill onto abutting or nearby properties in any way.	CO/Perpetual	ISD/Fire Prevention	
32	All fire/smoke detectors shall be hard-wired.	CO/Perpetual	ISD	
Final Sign-Off				
33	The Applicant shall contact Planning Staff at least five (5) 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	ISD/Plng.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Pooja Phaltankar (Alt.)

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 _____

