



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

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Case #: ZBA 2016-134
Site: 741 Somerville Avenue
Date of Decision: February 1, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: February 14, 2017

ZBA DECISION

Applicant Name:	Fatima Abouzid & El Mahjoub Karmoussi
Applicant Address:	741 Somerville Avenue, Apt. #1, Somerville, MA 02143
Property Owner Name:	Fatima Abouzid & El Mahjoub Karmoussi
Property Owner Address:	741 Somerville Avenue, Apt. #1, Somerville, MA 02143
Agent Name:	N/A

<u>Legal Notice:</u>	Applicants and Owners, Fatima Abouzid and EL Mahjoub Karmoussi, seek a Special Permit under SZO §4.4.1 to construct dormers, remove and create new windows, and construct a deck within the required side yards of a nonconforming structure.
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<u>Zoning District/Ward:</u>	RB zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	October 28, 2016
<u>Date(s) of Public Hearing:</u>	12/7/16, 1/4, 1/18 & 2/1/17
<u>Date of Decision:</u>	February 1, 2017
<u>Vote:</u>	4-0

Appeal #ZBA 2016-134 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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www.somervillema.gov

DESCRIPTION:

The proposal is to renovate the interior and exterior of the structure by modifying the floor plan of the first, second, and third floors, constructing one shed dormer, constructing a rear deck, removing windows, creating new window openings, and expanding the footprint of the building on the right in the rear. Both units will be renovated and remain two-bedroom units. A shed dormer on the right side of the structure and an addition on the first floor are also proposed which will add approximately 309 square feet of living area.

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 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."*

Section 4.4.1 states that "Lawfully existing one- and two-family dwellings which are used only as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, expanded, renovated, or altered by special permit granted by the SPGA in accordance with the procedures of Article 5, when any such enlargement, extension, renovation or alteration increases the nonconforming nature of the structure or the Gross Floor Area of the dwelling is increased by more than twenty-five percent (25%). For the purposes of this definition all percentages of increase shall be cumulative and calculated from square footages existing on the effective date of this ordinance. The SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure."

The structure is nonconforming with respect to off-street parking, front, left, and right yard setbacks, frontage, lot size, landscaped area, and FAR. The proposal involves making alterations within the required left and right side yard, which are one foot and 3.5 feet respectively, increasing the amount of landscaped area from 10% to 25%, and increasing the FAR from 0.78 to 0.91 by adding approximately 309 square feet of living area in the attic and first floor. This alteration to a nonconforming structure requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO).

In considering a special permit under §4.4 or 4.5 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposed renovations of the structure will allow for the structure to be renovated with minimal impact on the surrounding neighborhood. The proposal has been designed to not increase the nonconforming nature of the setbacks and to increase the amount of landscaped area to become conforming to the requirements of the SZO.

The existing lot does not have sufficient parking spaces to meet the requirements of Article 9. The locus is currently nonconforming with respect to the minimum number of off-street parking spaces. There are currently no parking spaces on the lot. Three parking spaces are currently required and as a result of this proposal three parking spaces will be required.



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; and to adequately protect the natural environment.

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."*

Surrounding Neighborhood: The locus is located in a residential section of Somerville Avenue on the northern block between Adelaide Road and Elm Street. Adjacent land uses include single- and two-family dwellings and a multi-unit condominium.

Impacts of Proposal (Design and Compatibility): The proposal to construct a shed dormer on a gable roof and an addition on the first floor. The dormer is designed at an appropriate scale and positioned on the roof in a manner that is compatible with the surrounding area. The proposed first floor addition will fill in a void of the existing structure and will square out the back of the structure.

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.*

Impacts of Proposal (Environmental): The proposed renovations will not have an adverse environmental impact.

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 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.*

The Board finds that this proposal allows a modest addition to the structure in a respectful form that preserves the character of the neighborhood. It also allows for the renovation of the structure along an important link of a well-traveled corridor.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Danielle Evans, Elaine Severino and Josh Safdie with Richard Rossetti absent. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a dormer, a deck, and the removal/creation of new windows. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>October 28, 2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 20, 2016</td> <td>Modified plans submitted to OSPCD (EX1.0, EX2.0, A1.0, and A2.0)</td> </tr> <tr> <td>January 6, 2016</td> <td>L1.0</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	October 28, 2016	Initial application submitted to the City Clerk's Office	December 20, 2016	Modified plans submitted to OSPCD (EX1.0, EX2.0, A1.0, and A2.0)	January 6, 2016	L1.0
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January 6, 2016	L1.0											
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
Construction Impacts												
2	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	PIng.									
3	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									
4	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. Construction equipment shall NOT be stored on City property.	During Construction	T&P									
Design												



5	Applicant shall provide final material samples for siding, fencing, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
Site				
6	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
7	A more detailed landscape plan showing the location and species of plantings shall be submitted to Planning Staff for review and approval.	CO	Plng.	
8	Any new lighting installed for this deck shall be downcast and shall not cast light onto abutting properties.	Perpetual	Plng. / ISD	
9	As per Somerville Fire Prevention regulations, grills and similar items shall not be used or stored on the deck, stairs or landing.	Perpetual	Plng/ISD/Fir e Prevention	
Public Safety				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
Final Sign-Off				
11	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*
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 _____

