



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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DANA LEWINTER, ALT.

Case #: ZBA 2010-64

Date: November 4, 2010

Recommendation: Conditional Approval

PLANNING BOARD RECOMMENDATION

Site: 152 Albion St

Applicant Name: Alan Peterson

Applicant Address: 7 Fairfield St, Medford MA 02155

Property Owner Name: Lawrence Fidalgo Revocable Trust

Property Owner Address: 36 Foxcroft Rd, Winchester MA 01890

Agent Name: Alan Peterson

Alderman: O'Donovan

Legal Notice: Applicant, Alan Peterson, and Owner, Lawrence Fidalgo Revocable Trust, seek a special permit (SZO §4.4.1, §5.1) to allow the expansion of an existing nonconforming commercial structure in order to construct a two family dwelling and a special permit to allow for use of a tandem parking space and reduced maneuvering aisles to meet parking requirements (SZO §9.13).

Zoning District/Ward: RB / Ward 5

Zoning Approval Sought: Special Permit §4.4.1, 9.13

Date of Application: September 28, 2010

Dates of Public Meeting • Hearing: Planning Board 11/4/10 • Zoning Board of Appeals 11/17/10

I. PROJECT DESCRIPTION

1. Subject Property: The subject property contains a one-story concrete block building on a 3692 sf lot. The use of the building has been a floor refinishing business. The building covers 71% of the lot and the remaining area is concrete. There is no curb along the street in front of the property. The lot is the



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same size and shape as other typical lots on this street, but it is the only commercial use on a street that is otherwise occupied by single-, two- and three-family houses.



152 Albion St

2. Proposal: The proposal is to construct a two-family dwelling in a front-to-back townhouse-like configuration. The building will be 2 ½ stories, or 40 feet tall at the roof ridge and 3690 nsf. Some of the existing structure will be retained, allowing the project to qualify as a modification of an existing non-conforming structure. The garage that currently sits in the back corner of the property will be removed.

Each unit will have a living room, dining room, kitchen, three bedrooms, and three bathrooms. The front unit will have a roof deck that is inset in the roof of the back unit. There will be a garage for two cars that will be dedicated to the front unit and driveway space for two cars parked in tandem that will be dedicated to the rear unit.

The Planning Board is recommending approval of the applicant's original design which included two garage doors along the street and a driveway to the left for two cars parked in tandem. This plan addresses concerns raised by the neighborhood about the impact of the project on the adjacent property to the left. The applicant worked with Planning Staff and the DRC through two meetings to develop alternate plans that would remove the front-facing garage. No other plan could meet the parking requirements of the SZO and also meet the concerns of the abutting neighbor.

3. Nature of Application: A 2-family dwelling is a by-right use in the RB district and the land area is sufficient to satisfy the lot area per dwelling unit requirement. The structure is currently nonconforming with several dimensional requirements, including minimum lot size, ground coverage, landscaped area, rear and side yard setbacks and street frontage.

Many of the nonconformities would become conforming. The ground coverage would become conforming from 71% coverage to 45% coverage; the maximum allowed is 50%. The landscaped area would be above the required 25%. The floor area ratio would be at the limit of 1.0. The rear yard setback would become conforming with a 17 foot setback. The left side yard setback would become conforming at 8 feet.

The right side yard setback would remain nonconforming at 3 feet, the street frontage would remain at 41 feet and the lot size would remain at 3692 sf. While the lot size, side-yard and frontage match those of most residential lots on this street, these nonconformities require the applicant to obtain a special permit under §4.4.1 of the SZO.

The 4 proposed parking spaces would satisfy the parking requirement; however, the applicant is seeking a special permit to use a tandem parking space to meet requirements. The tandem spaces would belong to one unit. Parking for the front unit would be provided in the garage.

The applicant will maintain an existing non-conforming curbcut.

4. Surrounding Neighborhood: The surrounding area is residential with one-, two-, and three-family dwellings. The houses are typically 2 ½ stories with front porches.

5. Impacts of Proposal: The change in use will be an improvement to the site. A two-family dwelling is a more compatible use in the residential neighborhood than the floor refinishing business. The project provides adequate rear yard space for the back unit that will also open up space and improve the quality of life for adjoining neighbors. While the front unit is taller than some of the other homes on the street, this is necessitated by the need to meet the parking requirement on the site.

Transitioning this site from a floor refinishing business to a residential use will complete the streetscape on this street, reduce the traffic impact, reduce truck traffic, reduce noise and congestion, make a significant reduction in exhaust fumes by removing idling trucks from the neighborhood, open up landscaping areas and reduce impervious surfaces.



Left: proximity to neighboring home; Right: existing site

6. Green Building Practices: The plan is to include extra insulation, energy efficient mechanicals and appliances, insulating doors and windows, pavers in the driveway and composite material siding.

7. Comments:

Fire Prevention: Has been contacted but has not yet provided comments.

Traffic & Parking: Has been contacted but has not yet provided comments.

Ward Alderman: Has been contacted and supports the project with the garages facing the street. He originally indicated that he does not support the proposal as revised by the Planning Staff and DRC.

Design Review Committee: The DRC thoroughly reviewed the project at two meetings (10/14 and 10/28). The DRC thought that it was the right move to relocate the garage doors to the side of the house. They had suggestions regarding the side rear cantilever, raising the porch, reconfiguring the recessed front door entry, the vertical siding and the pavement markings. The applicant responded to these concerns from the first meeting and returned with an updated plan on October 28. At that meeting, the DRC discussed the issues with the garage doors, and then further refined the design. Details of the meeting can be found in the minutes from both 10/14/10 and 10/28/10.

Abutter Comments: The immediate abutter to the left indicated that he would prefer the front-facing garages to minimize the impact of the two vehicles pulling in and out of the side garage adjacent to his house. Otherwise, there have been no opposing abutter comments provided to Staff or the Planning Board ahead of the public hearing. Other abutters indicated that they support residential use, but wanted to minimize the impacts of the design on immediate abutters, and that the front-facing garages would minimize these impacts.

II. FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & 4.4.1 & 9.13):

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."

In considering a special permit under §4.4 of the SZO, Board find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The majority of the nonconformities of the site would be eliminated including ground coverage, landscaped area, rear yard setback, left side yard setback. The only dimensions that would remain nonconforming are left side yard setback, street frontage, curbcut and lot size. The use of the property would change from a nonconforming business to a conforming residential property.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The proposal would provide the four required parking spaces onsite. The traffic to the site would be typical of any two-family house on the street. Tandem parking spaces are a typical parking situation for residential properties in the City. The spaces would be used for one of the dwellings so that the cars could easily be rotated. The proposal will reduce overall traffic, vehicle impacts, vehicle idling and the many other negative impacts of a commercial/industrial use within a residential neighborhood.

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 conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. As a two-family house, the proposal is consistent with the purpose of the district, which is, "[t]o 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."

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The proposal is consistent with the purpose of the section. The side driveway will provide two spaces for one of the units.

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 proposal as designed would be compatible with the built surrounding area. The change in use would eliminate the nonconforming business use and establish a compatible two-family dwelling.

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 change in use will decrease the adverse environmental impact at the site. The noise at the site will be reduced from a business to a two-family dwelling.

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.

The project will remove a use that generated truck traffic and replace it with a typical residential use.

III. RECOMMENDATION

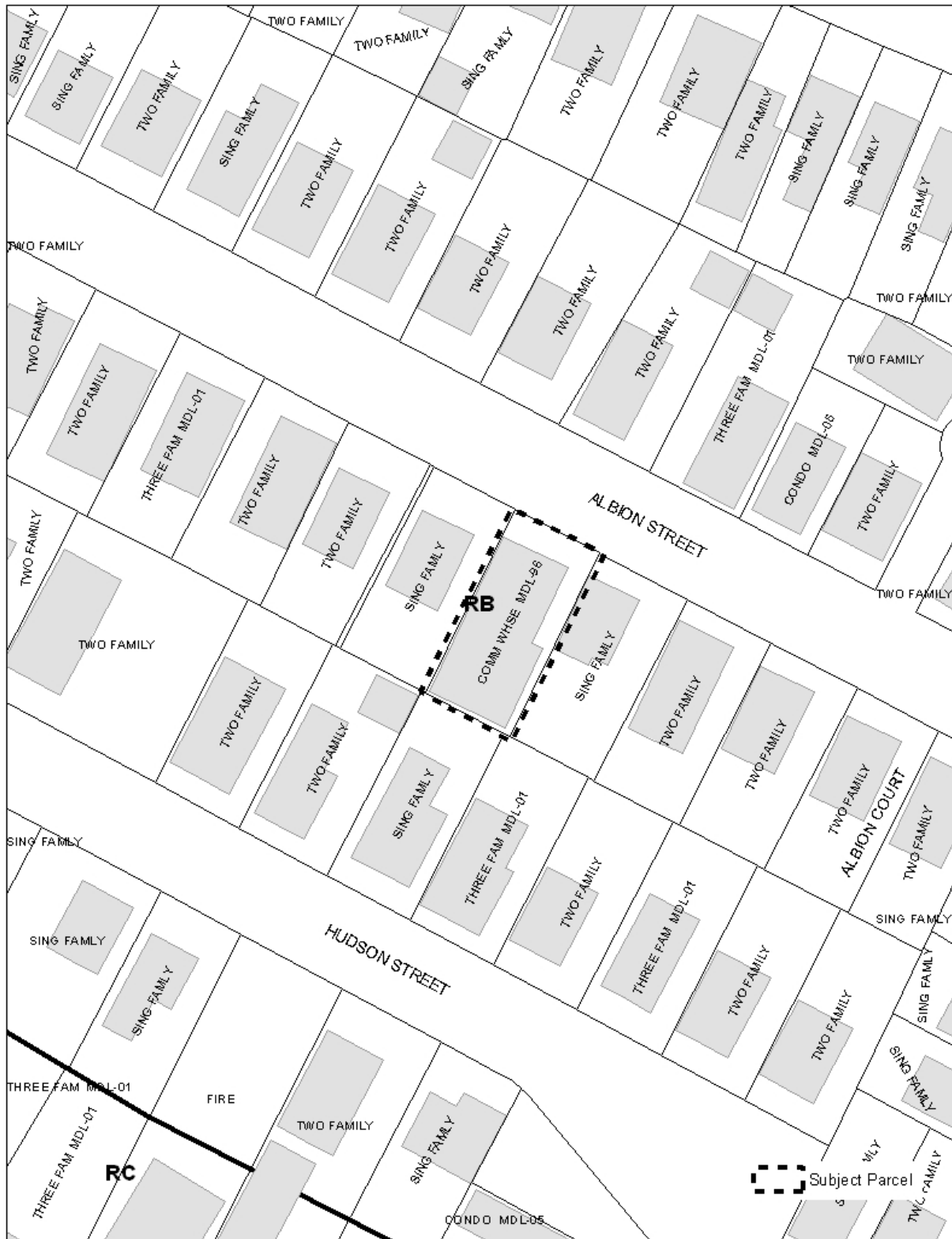
Special Permit under §5.1 & 4.4.1 & 9.13

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the expansion of an existing nonconforming commercial structure in order to construct a by-right two family dwelling. Also, to use a tandem parking space to meet parking requirements. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(Sept 28, 2010)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>9/28/10</td><td>Original plans submitted to OSPCD (elevations, floor plans, site plan) with front garage</td></tr></table>				Date (Stamp Date)	Submission	(Sept 28, 2010)	Initial application submitted to the City Clerk’s Office	9/28/10	Original plans submitted to OSPCD (elevations, floor plans, site plan) with front garage
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9/28/10	Original plans submitted to OSPCD (elevations, floor plans, site plan) with front garage									
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
2	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							

3	<p>Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division:</p> <p>a) a copy of any Response Action Outcome (RAO) Statement, or other appropriate document signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or</p> <p>b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.</p>	Foundation Permit	Plng/ISD	
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.	During Construction	T&P	
5	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	During Construction	OSE/FP/BOH	
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	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	

8	The Applicant shall install granite curbing along the street for any length of the existing driveway that can be closed, and shall provide for a sidewalk in the curbed area that meets the requirements of the Engineering Department.	CO	Plng. / DPW	
9	The applicant shall provide material and color samples for the windows, siding and porches and the garage doors to Planning Staff for review and approval.	CO	Plng.	
10	The applicant shall continue to work with staff on design details surrounding the window bay including but not limited to corner boards and window sizing, with final review and approval by Planning Staff.	BP	Plng.	
11	The driveway shall be constructed of pervious pavement, unless it is deemed by the Engineering Department that further pervious area on this lot will have negative impacts on immediate abutters. The driveway pavement shall include a change in material, texture or color to designate a four-foot walkway from the sidewalk to the entry door for the rear unit.	CO	Plng.	
12	The applicant shall provide Planning Staff with a landscape plan for review and approval.	CO	Plng.	
13	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
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.	Perpetual	ISD	
15	The Applicant shall furnish the buyer of the front unit with documentation stating that the garage door on this unit must remain closed except when vehicles are pulling into or out of the garage. This shall become a part of the registered record for the property, being identified in the deed, condo documents or another separately filed document that shall first be reviewed and approved by Planning Staff.	CO	Plng.	
16	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.	



152 Albion Street