



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2009-49  
**Date:** November 9, 2009  
**Recommendation:** Unable to Recommend  
Approval of Variance/  
Conditional Approval of  
Special Permit

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**PLANNING STAFF REPORT**

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**Site:** 38 Gorham Street

**Applicant Name:** Daniel O'Rourke

**Applicant Address:** 38 Gorham Street

**Property Owner Name:** same

**Alderman:** Robert Trane

Legal Notice: The Applicant proposes to convert a two-family into a three-family dwelling and seeks a variance (SZO §5.5) for lot area per dwelling unit. The Applicant also seeks a special permit (§4.4.1 & 5.1) for the alteration of a non-conforming structure in order to construct a dormer and deck within the required side yard.

Zoning District/Ward: Residence B / Ward 7

Zoning Approval Sought: Variance SZO §5.5

Date of Application: November 9, 2009

Dates of Public Meeting • Hearing: Planning Board 11/19/09 • Zoning Board of Appeals 12/2/09

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property consists of a wood-framed, 2 ½ story structure on a 3530 s.f. lot. The use of the property is a two-family dwelling. One unit has two bedrooms and the other has four bedrooms. There is no parking onsite. There are two shed dormers on the house – one is 7.5 feet long providing headroom for the stairs and the other is 14.5 feet long providing headroom for a bedroom.
2. Proposal: The proposal is to convert the structure from a two-family dwelling into a three-family dwelling. There would be one unit on each floor. Two of the units would have two



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bedrooms and one unit would have one bedroom. The Applicants would add a curb cut and parking space that is less than the required 9x18 feet. The proposal also involves constructing an eight foot shed dormer for a bathroom and a two-story, approximately 9.5x18.5 foot deck in the rear of the property.



38 Gorham Street –  
(l) Aerial of property  
(r) Location of proposed driveway



3. Nature of Application: A residential conversion from 2 to 3 dwelling units requires the Applicant to apply for a variance from the lot area per dwelling unit requirement. The existing lot area per dwelling unit is conforming to the regulation with 1,765 square feet per dwelling unit and the proposed would be 1,176; which is less than the requirement of 1,500 square feet per dwelling unit.

The structure is currently nonconforming with a few dimensional requirements, including minimum lot size, side yard setbacks, and street frontage. The proposed deck and dormer would affect the side yard setback. The proposed deck would line-up with the house and would have the same nonconforming side yard of 3.4 feet; the minimum side yard setback in this district is 7.2 feet. The proposed dormer would be constructed along the same side of the property as the deck. These existing nonconformities require the Applicant to obtain a special permit under §4.4.1 of the SZO.

The one additional parking spaces is sufficient for a special residential conversion under SZO §9.5.2.a. Since the dimensions of the parking space is less than the required 9x18 feet, the Traffic and Parking Director must recommend that the dimensions are sufficient under §9.11.a.

4. Surrounding Neighborhood: The surrounding neighborhood is residential with one-, two-, and three-family houses.

5. Impacts of Proposal: One negative impact of the adding an additional dwelling unit is that a unit that is large enough for a family with four bedrooms would be broken up into two small units with one and two bedrooms. The City's Housing Trend Report cites the Census Data showing that 62% of the City's housing stock is made up of one or two bedroom units. The number of three bedroom units is 21% and the number of four bedroom units is only 14% of the housing stock. Larger units are important to provide housing options for families in the City.

The addition of a parking space onsite would satisfy the parking requirements; however, Traffic and Parking is not supportive of adding a parking space in this location. A parking space in this location would block the only access to the back of the house and the parking space is not the required dimensions.

There are no anticipated negative impacts from the proposed deck and dormer. The deck would not increase the encroachment into the side yard and only extend a few feet further into the rear yard than an existing porch, which was recently removed. The proposed dormer is fairly small at 8 feet wide. It would start below the ridge of the house where an existing dormer on the opposite side of the house starts. The slope of the dormer would be almost identical to this dormer.

6. Green Building Practices: None.

7. Comments:

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

*Traffic & Parking:* Is not supportive of a parking space in the proposed location because it blocks the access to the back of the house and it is not the required dimensions.

*Ward Alderman:* Has been contacted but has not yet provided comments.

## **II. FINDINGS FOR VARIANCE (SZO §5.5.3):**

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

Please find the Applicant's responses attached.

1. There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."

Staff find that there are no special circumstances that cause substantial hardship – the lot is rectangular and does not have soil conditions or topography that are different from neighboring lots.

The Applicant's response to this finding relates to the proposed dimensions of the parking space and the fact that the tenants will not be adding more vehicles to the area than they currently own. This information does not relate to special circumstances related to the land or structure that are causing hardship.

2. The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.

Staff find that the variance is not the minimum necessary for reasonable use of the building or land. The land and building have a reasonable use as a two-family dwelling; which is common in a Residence B zoning district.

The Applicant's support of this finding is that the family has a long history of living on Gorham Street and they would like to move an additional sibling into the house to share in the mortgage payments. Unfortunately this does not satisfy the second finding for justifying a variance. All of the family members could live in house within two dwelling units. The number of bedrooms would actually be decreasing as a result of the proposed conversion.

3. "The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Staff find that the conversion from a two- to a three-family house would not be detrimental to the neighborhood; however, dividing larger houses into smaller units is decreasing the supply of family-sized housing, which the City's Housing Trend Report states is deficient in our housing stock. Staff find that the two-family house is an appropriate use of the land and granting the variance would not be in harmony with the general purpose of the Ordinance.

The Applicant's response is that there are other three-family houses on the street and except for the dormer they would not be changing the exterior of the property. He does not find that the conversion to a three-family will be detrimental to the neighborhood.

### **III. FINDINGS FOR SPECIAL PERMIT (SZO §5.1.4 and 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."

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. The deck would not increase the encroachment into the side yard and only extend a few feet further into the rear yard than an existing porch that has been removed. The proposed dormer is fairly small at 8 feet wide. It would start below the ridge of the house where an existing dormer on the opposite side of the house starts. The slope of the dormer would be almost identical to this dormer.

The standards for the parking space have not been met and Traffic and Parking is not support of it.

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. The proposal of alterations to a residential structure is also consistent with the purpose of the Residence B district.

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 deck and the dormer are designed to be compatible with the built surrounding area as discussed in finding two. Also, the first story of the deck would have attractive decorative posts and planters.

**IV. RECOMMENDATION****Variance from Lot Area per Dwelling Unit (SZO §8.5.B) Requirements**

Based upon the application materials, Planning Staff site visits, submitted information and the above findings, the Planning Staff is **UNABLE TO RECOMMEND** approval of the requested **VARIANCE** for conversion from a two to a three family dwelling. The Staff finds that the site does not meet all of the requirements for a variance as set forth under §5.5.3 of the SZO.

**Special Permit under §5.1.4 and 4.4.1**

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**. If the Board approves the special permit and denies the variance the Applicant shall not create a third unit in the building nor construct a parking space onsite.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a 8'± dormer and a two-story, 9.5x18.5'± deck. Approval is <u>not</u> for a third dwelling unit or the addition of a parking space. 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>Nov 9, 2009</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>Oct 21, 2009 (Nov 17, 2009)</td><td>Plans submitted to OSPCD (Site Plan)</td></tr><tr><td>(Nov 17, 2009)</td><td>Plans submitted to OSPCD (Existing Conditions: A-101A, A-101B, A-102, A-103, Floor Plans: A-200A, A-200B, A-201, A-202, Elevations: A-400, Section: A-401)</td></tr></table>				Date (Stamp Date)	Submission	Nov 9, 2009	Initial application submitted to the City Clerk's Office	Oct 21, 2009 (Nov 17, 2009)	Plans submitted to OSPCD (Site Plan)	(Nov 17, 2009)	Plans submitted to OSPCD (Existing Conditions: A-101A, A-101B, A-102, A-103, Floor Plans: A-200A, A-200B, A-201, A-202, Elevations: A-400, Section: A-401)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive ZBA approval.												
2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
3	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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.									



