



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2012-37  
**Date:** June 14, 2012  
**Recommendation:**  
Variance – Unable to Recommend  
Special Permit – Conditional Approval

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**PLANNING STAFF REPORT**

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**Site: 63 Boston Street**

**Applicant and Property Owner Name:** David Scott and Renee Scott  
**Applicant and Property Owner Address:** 63 Boston Street, #2, Somerville, MA 02143  
**Alderman:** Thomas Taylor

Legal Notice: Applicants and Owners, David and Renee Scott, seek a Special Permit under SZO §4.4.1 to alter a nonconforming structure and a Variance under SZO §5.5 for relief from the building height requirement under SZO §8.5.F to construct a third story addition on the rear of an existing two-family dwelling. RA zone. Ward 3.

Zoning District/Ward: RA zone / Ward 3

Zoning Approval Sought: Special Permit under SZO §4.4.1 and Variance under §5.5 and §8.5.F

Date of Application: May 8, 2012

Dates of Public Hearing: Zoning Board of Appeals – **June 20, 2012**

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**I. PROJECT DESCRIPTION**

- Subject Property: The subject property is a 4,160 square foot lot located near the intersection of Boston Street and Hamlet Street, three blocks south of Highland Avenue. The two-family structure is 2½ stories high, not including the basement level, contains 4,443 gross square feet, 2,786 square feet of habitable space, and has one legal parking space.
- Proposal: The Applicants/Owners of the unit that occupies the second and third floors (Unit # 2) of the subject dwelling are proposing an addition to the third story of the building. The rear 1/3 of the building at 63 Boston Street is only two stories in height and contains a flat roof with a solar array for a hot water unit. The Applicants/Owners would like to construct a 22 foot wide by 13 foot deep (approximately 280 square feet) addition directly on top of this flat roof. Three feet of this



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addition would overhang the lower two floors on the right side of the structure. The addition would be 9 feet above the existing roof over the second story. The highest point of the structure's existing roofline is approximately 37 feet and the roof height of the proposed addition would be approximately 33 feet. The new addition would also not be higher than the roof peak of the portion of the structure to which it is attached. The habitable space of the addition would contain one bedroom and one full bathroom. The newly added bedroom would have numerous windows with two on each side façade and six across the rear façade. One window would also be installed in the proposed bathroom. The solar array would be reinstalled on top of the proposed addition as well.

3. Nature of Application: The lot itself is nonconforming with regard to lot size at 4,160 square feet, as 10,000 square feet is required in the RA district. The property is also nonconforming with regard to lot area per dwelling unit with only 2,038 square feet per unit, as the RA district requires 2,250 square feet of lot area for each dwelling unit. The property's frontage, 43.1 feet, is also less than the 50 foot minimum required in each of the City's residential districts. The only other area where the two-family structure is dimensionally nonconforming is its left side yard setback. The proposed addition would have a shed style roof in which the points of intersection of the bottom of the rafters and the interior faces of the exterior walls are greater than two feet above the floor level. This means that the addition to the third floor would NOT be considered a half story addition, but instead would be considered a FULL story addition. This would then raise the story height of the two-family structure from 2½ stories to a full 3 stories. Three story structures are not permitted in the RA Districts. Since the existing structure height is a conforming 2½ stories and the proposal would increase the classification of the structure to a nonconforming 3 stories, this would require a Variance from the maximum height dimensional requirement in §8.5.F of the Somerville Zoning Ordinance (SZO).

Since the lot is less than 50 feet wide there is a reduction factor for the required side yard setback which would only necessitate 7 feet 6 inches of side yard setback on the on the left side of the existing structure. This is 6 inches less than the normally required 8 feet of side yard setback for a 2½ story structure. However, the rear addition to the third floor would be occurring only 7 feet 4.8 inches away from the left side property line, which would still be within the left side yard setback. Since the construction for the third story addition would be occurring within the nonconforming left side yard setback, the construction would also require a Special Permit under SZO §4.4.1 to make the alterations to the building.

4. Surrounding Neighborhood: The subject property is located in a RA District within the Prospect Hill neighborhood. The surrounding area is comprised predominantly of single-, two-, and three-family dwellings that are 2½ stories in height. The architecture of the neighborhood includes a wide variety of styles and details which are generally from the late 19<sup>th</sup> to early 20<sup>th</sup> century middle class housing.

5. Impacts of Proposal: The proposal to add additional living space on top of the existing rear two story portion of the two-family dwelling would have a minimal impact, if any, on the surrounding area. The roofline of the proposed addition would be lower than the highest point of the existing structure and below the peak of the roofline to which it would be attached. Additionally, since the addition would be at the rear of the existing structure, it would not be visible from the public right-of-way and therefore would not impact the Boston Street streetscape in any manner. The windows on the proposed addition would also not appear to negatively impact abutting neighbors as the majority of the proposed windows would be on the rear façade, which is a substantial distance from the structure directly behind the property. Furthermore, it does not appear that the proposed addition would greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. Even with the proposed third story addition at the rear of the structure, the building would maintain a height and massing that is comparable to the other structures in the surrounding area. The property will remain a two-family residential use which is consistent with the surrounding neighborhood.

6. Green Building Practices: The Applicants/Owners have indicated they will be using reclaimed wood inside the existing structure. Additionally, the Applicants/Owners currently have and will continue to use, a solar hot water unit on top of the roof. The building is also compliant with the Stretch Code with items such as insulation, solar hot water, a low roof line, and the addition itself will use less materials.

7. Comments:

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

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

*Historic Preservation:* Has been contacted but has not yet provided comments.

*Wiring Inspector:* Indicated in an email to Planning Staff on Tuesday, June 12, 2012, that “the addition of bedrooms would require the entire dwelling to be brought up to code for smoke detectors.”

*Neighbor Comments:* Three neighbors have submitted letters in support of this proposal.



Existing Front Facade



Existing Rear Façade

## II. FINDINGS FOR VARIANCE (SZO §5.5 & 8.5.F):

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

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.”

The Applicant indicated the following response to this question in their application: “The existing structure is on a small parcel of land, conforming on 3 of 4 sides, but expansion on the north side requires a special permit even to construct within the existing footprint of the house. Confined by the existing setbacks, expanding upward is the only way to increase living space while keeping in harmony with the existing structure. The back section of the house is two stories with a flat roof, and extending this section upward one story would not be in compliance with our zone.

The hardship that results from these special circumstances is that it is not possible within the residential zone to add living space sufficient for five family members plus visiting family. The children are currently 7, 4, and seven months, and as they grow they will require a second bathroom in the home as well as a bedroom for each. The existing bedrooms are within a finished attic, where the sloping ceilings make much of the space unusable for an adult or a tall child.

Our plan gains living space on the third floor while remaining below the roofline and within the footprint of the structure, as well as not being visible from Boston Street.”

The existing lot of the subject property is somewhat small at only 4,160 square feet, which only provides 2,038 square feet per dwelling unit at the site; approximately 200 square feet less than

what is dictated in the SZO. The existing structure is already nonconforming with regard to its left side yard setback and there is little room for structural expansion towards the front or right sides of the property. The existing building does only occupy approximately 31% of the subject property and there is about 30 feet of rear yard setback currently which is about 10 feet more than the requirement for the RA district. However, because this is a two-family dwelling where one unit is situated on top of the other unit, it may prove difficult to get both occupants of the two-family dwelling to agree to make the investment to expand the structure deeper into the lot. Since the Applicants/Owners occupy the space on the second and third floors, they do not hold as much bargaining power as the occupant on the first floor who could expand their first floor unit without consent from the occupants above. The area where the Applicants/Owners are proposing the third story addition is the only portion of the structure that is 2 stories and not 2½ stories in height, and no coordination with the occupant on the first floor is necessary to expand living space into this area. That being stated, there does appear to be the possibility to add additional living space to this portion of the structure and to still be able to remain within the dimensional requirements of the SZO. Therefore, Staff is UNABLE TO DETERMINE if there are special circumstances at the property that affect this specific property but do not affect other properties in the zoning district, which would therefore create a hardship for the Applicants/Owners.

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.”

The Applicant indicated the following response to this question in their application: “Our home is limited by today's standards. As a family with three young children, having only one bathroom (located on the main floor of the unit) and three bedrooms on the upper story is insufficient. While on the main floor there is a fourth bedroom (which we use as a playroom, study and guest room) our children still need us close by at night and our infant is sharing the master bedroom with us. The guest room is used frequently by family that comes to visit and help us with the children. If we were to turn the guest room into a bedroom for one of our children, then we would no longer be able to accommodate grandparents, as well as other family and friends, and would lose the play and study space.

The variance is the minimum approval necessary to grant us reasonable relief because the zoning laws for our district will not allow us sufficient room to achieve our goal of being comfortable in our current home for at least the next 18 years while our children move through the Somerville Public Schools. We want our children each to have their own room that is large enough for a toddler or a 6'3" teenager. And, our four-year-old daughter already hogs our one bathroom!

As in many old houses, we have very limited storage and closet space, and a large section of one of the children's bedrooms will be taken up by a hallway to the new space. Our children will probably be tall like their father, who currently bangs his head on sloped ceilings in the bedrooms. The homes in this neighborhood are intended for family dwelling. Without a variance, the low ceilings and limited space on the third floor are not reasonable for a family of five.

Creating an addition which keeps within the zoning laws would be an major project costing a lot of money and still would not provide the space needed.”

Staff is UNABLE TO DETERMINE if the proposal to construct a full story addition on top of the 2 story rear portion of an existing two-family dwelling, which requires a Variance from the 2½ story maximum building height requirement in the RA District as specified in §8.5.F of the SZO, is the minimum Variance necessary to grant reasonable relief to the Applicants/Owners and is

necessary for reasonable use of the building or land. The Applicants/Owners purchased the dwelling unit in 2005 and it has been one of two units operating in the structure since that time. A two-family residential use on a 4,160 square foot lot seems to be a reasonable use of the property, as does the existing four bedroom, one full bathroom dwelling unit that the Applicants/Owners have been occupying to date. The proposed addition would add a fifth bedroom and a second full bathroom to this dwelling unit. Staff is unable to determine if this requested Variance to exceed the allowable building height in the RA District is necessary to grant reasonable use of the Applicants/Owners dwelling unit since the unit has been operating as a four bedroom unit since at least 2005, if not longer.

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.”

The Applicant indicated the following response to this question in their application: “The proposed addition will be in harmony with the Somerville Zoning Ordinance because it will maintain the two-and-a-half story appearance of the home from the street. Our proposed addition will be located at the back of our home, not visible from Boston Street. The height of the addition will not exceed the height of the original structure. It will remain within the current footprint of the structure. Our neighbors on both sides and to the back have seen the drawings and are all in support of our project, as are many others in our immediate neighborhood.

We feel that it is important to keep the integrity and beauty of Somerville's old housing stock. We love our home for its old curved windows, high ceilings, and lovely woodwork. We have worked hard to care for and preserve its vintage charm.

While the proposed addition goes outside the current zoning laws, our intention is to do everything possible to keep the feel of the new room and bathroom within the style and quality of the original. The original wood bannisters and moldings were the first thing that attracted us to the house when we saw it 7 years ago, and we want to keep its original character intact while making necessary improvements.

By bringing this home up to contemporary standards, the neighborhood is benefitted, not harmed.”

This project is consistent with the purposes of the SZO and will not be detrimental to the surrounding neighborhood. The granting of this Variance will be consistent with the purposes of the SZO, will not be injurious to the neighborhood, and will not be detrimental to the public welfare. Since the addition would be at the rear of the existing structure, it would not be visible from public right-of-way and therefore would not impact the Boston Street streetscape in any manner. The addition does not appear that it would greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. Even with the proposed third story addition at the rear of the structure, the building would maintain a height and massing that is comparable to the other structures in the surrounding area. Therefore, Staff FINDS that the granting of the Variance would be in harmony with the general purpose and intent of this Ordinance and would not be detrimental to the public welfare.

### III. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §5.1):

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 finds that the alterations proposed to the rear of the structure would not be substantially more detrimental to the neighborhood than the existing structure. The proposed addition would only extend the rear portion of the building 9 feet higher and this would still be below the roofline to which the addition is attached. The roofline of the proposed addition would be lower than the highest point of the existing structure and below the peak of the roofline to which it would be attached, in effect, still meeting the intent of the standards of the zoning ordinance. Additionally, since the addition would be at the rear of the existing structure, it would not be visible from the public right-of-way and therefore would not impact the Boston Street streetscape in any manner. Even with the proposed third story addition at the rear of the structure, the building would maintain a height and massing that is comparable to the other structures in the surrounding area. The property will remain a two-family residential use which is consistent with the surrounding 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 promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; and to encourage housing for persons of all income levels."

The proposal is also consistent with the purpose of the district (6.1.1. RA - Residence Districts), which is, "To establish and preserve quiet 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 proposed third story addition at the rear of the structure would maintain a height and massing that is comparable to the other structures in the surrounding area and maintain the existing two-family residential use at the property.

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."

A proposed rear addition to the existing two-family structure would be compatible with the characteristics of the surrounding neighborhood and would have a minimal impact, if any, on the surrounding area. The

roofline of the proposed addition would be lower than the highest point of the existing structure and below the peak of the roofline to which it would be attached, in effect, still meeting the intent of the standards of the zoning ordinance. Additionally, since the addition would be at the rear of the existing structure, it would not be visible from the public right-of-way and therefore would not impact the Boston Street streetscape in any manner. Furthermore, it does not appear that the proposed addition would greatly impact the amount of sunlight being received by surrounding structures or limit the views from abutting properties. Even with the proposed third story addition at the rear of the structure, the building would maintain a height and massing that is comparable to the other structures in the surrounding area. The property will remain a two-family residential use which is consistent with the surrounding neighborhood.

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.

No adverse environmental impacts are anticipated from this proposal. No new noise, glare, smoke, vibration, nor emissions of noxious materials nor pollution of water ways or ground water nor transmission of signals that interfere with radio or television reception are anticipated as part of the project. The property will remain a two-family residential use which is consistent with the surrounding neighborhood.

#### **IV. RECOMMENDATION**

##### **Variance under §5.5 and §8.5.F and Special Permit under §5.1 and §4.4.1**

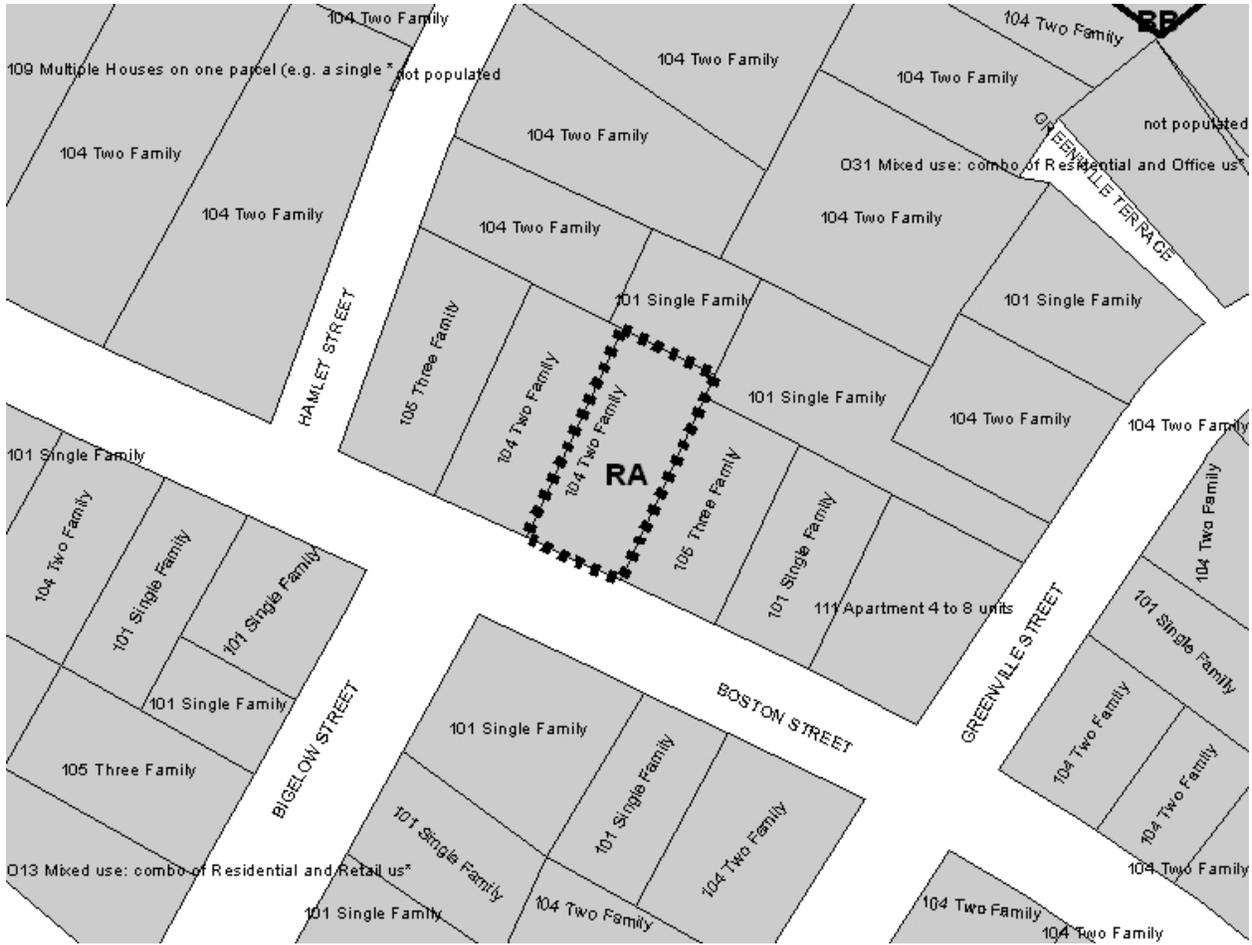
Based upon the application materials and the above findings, the Planning Staff is **UNABLE TO RECOMMEND** approval for the maximum building height **VARIANCE** at this time. The Staff finds that the Applicant has not adequately addressed that the application meets the first and second findings under §5.5.3 of the SZO. If the Zoning Board of Appeals is able to make the above findings for the requested Variance, the Staff recommends the conditions listed below be attached to the decision.

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

The recommendation is based upon a technical analysis by Planning Staff of the application materials based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes										
1	Approval is for a Variance under SZO §5.5 for relief from the maximum building height requirement under SZO §8.5.F and for a Special Permit to alter a nonconforming structure under SZO §4.4.1 to construct a third story addition on the rear of an existing two-family dwelling. 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>(May 8, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 16, 2012 (June 11, 2012)</td> <td>Plot Plan</td> </tr> <tr> <td>May 15, 2012 (June 11, 2012)</td> <td>Existing Conditions 3<sup>rd</sup> Floor</td> </tr> <tr> <td>May 15, 2012 (June 11, 2012)</td> <td>Proposed 3<sup>rd</sup> Floor Addition</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(May 8, 2012)	Initial application submitted to the City Clerk's Office	May 16, 2012 (June 11, 2012)	Plot Plan	May 15, 2012 (June 11, 2012)	Existing Conditions 3 <sup>rd</sup> Floor	May 15, 2012 (June 11, 2012)	Proposed 3 <sup>rd</sup> Floor Addition
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Any changes to the approved site plans or elevations that are not <i>de minimis</i> must receive SPGA approval.														
2	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											
3	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP											
4	New siding type and color, trim, and materials of the addition shall match that of the existing structure.	CO	PIng.											
5	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											

6	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	Png.	
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**63 Boston Street**