



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2013-20  
**Date:** April 11, 2013  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 239 Highland Avenue

**Applicant Name:** Patricia L. Hess  
**Applicant Address:** 12 Old Planters Road, Beverly, MA 01915  
**Property Owner Name:** PLH Invest, LLC  
**Property Owner Address:** 12 Old Planters Road, Beverly, MA 01915  
**Agent Name:** Aura Leticia De Leon  
**Agent Address:** 12 Old Planters Road, Beverly, MA 01915  
**Alderman:**

Legal Notice: Applicant, Patricia L. Hess, and Owner, PLH Invest LLC, seek a Special Permit under SZO §4.4.1 to add a small addition to the rear of the structure and a Special Permit to not provide one parking space that is required to convert the structure from a two- to a three-family structure.

Zoning District/Ward: RC / 5  
Zoning Approval Sought: Special Permit §4.4.1, §5.1 & §9.13.a  
Date of Application: March 14, 2013  
Dates of Public Hearing: Zoning Board of Appeals April 18, 2013

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a 3,333 square foot lot on which sits a 3,269 square foot two-family house. There is a driveway on the property that fits two cars parked in tandem. The first floor unit is comprised of two bedrooms, a living room, dining room, kitchen and bathroom. The second unit is on the second and third floors and contains four bedrooms, a living room, dining room, kitchen and bathroom.



2. Proposal: The proposal is to convert the two-family house into a three-family house. In order to make the conversion the rear egress stair needs to be slightly widened to meet building code and extended upward to the third unit. The stair enclosure would bump out 1 foot  $\frac{3}{4}$  inches in the rear on the second and third floor beyond where the house ends today. The roof the staircase enclosure would be change from a shed to a gable and its slope would match that of the house. The new roof would be lower in height than the main house. There would be two 2-bedroom units and a 1-bedroom unit. The only other change to the exterior would be adding a skylight on the left (west) side of the house.

The site plan submitted includes paving the backyard for three parking spaces; however, the spaces do not have sufficient maneuvering space and are no longer part of the proposal. No additional parking beyond the existing driveway will be provided.



3. Nature of Application: The use as a three-family is a by-right use and meets the lot area per dwelling unit requirement of 875 square foot with 1,111 square feet per unit.

The structure is currently nonconforming with respect to several dimensional requirements including minimum lot size, side yard setback and street frontage. In accordance with the Somerville Zoning Ordinance (SZO) §4.4.1, the alteration of a nonconformity three-family structure requires Special Permit approval. Currently, the left side yard setback is 1.5 feet. This setback will not change as a result of the proposal although the rear stair enclosure will increase in height and extend back just over one foot along this property line.

The existing two-family requires 4 parking spaces and the proposed three-family with 2-2 bedrooms and 1-1 bedrooms requires 5 parking spaces. The driveway holds two cars; however, the driveway only technically counts as one parking space. SZO §9.13 allows for the modification of parking requirements for nonconforming structures and lots by special permit where the total number of parking spaces required by this Ordinance is 6 or fewer.

4. Surrounding Neighborhood: Highland Avenue is a mix of residential and commercial establishments. On each side of the property are mixed use buildings with three-residential units. There is a residential neighborhood to the north with mostly two-family homes and the Somerville Hospital is to the south of the property. On-street parking is available on the surrounding streets and is limited to 2 hour parking except for vehicles with residential parking permits.

5. Impacts of Proposal: The proposed increase in the rear stairway enclosure in height by one-story and the increase in depth by just over a foot is not anticipated to have negative impacts. The enclosure is in the rear of the building, it is lower in height than the main body of the house and it does not come closer to the side lot line than the existing structure.

The Applicant submitted a memo from a traffic engineer that states that based on the multiple public transportation options that would serve to reduce parking demand in this area, and the significant number of available on-street parking spaces in the area, it is expected that the existing on-street parking supply will be more than sufficient to support the conversion of the property from a 2-unit residential building to a 3-unit residential building.

6. Green Building Practices: The applicant listed the following energy efficiencies that will be implemented. The building will be insulated with fire rated insulation, old kitchen appliances will be replaced with Energy Star appliances, low-wattage lights will be used throughout the property, and the toilets will be replaced with efficient low-water toilets.

7. Comments:

*Fire Prevention:* The Owner shall install a code compliant fire alarm and sprinkler system.

*Traffic & Parking:* The applicant for 239 Highland Ave is proposing to convert an existing 2-unit residential building into a 3-unit residential building. Per the Somerville Zoning Ordinance (SZO) 1 additional off street parking space is required. The applicant/developer will only provide 2 off street parking spaces.

The applicant has hired a professional Transportation Firm, Design Consultants, Inc. (DCI) to prepare a Parking Assessment Memorandum. DCI has submitted a well prepared and professional Parking Assessment Memorandum.

The Parking Assessment Memorandum concludes that there are a significant number of available on-street parking spaces in the area surrounding 239 Highland Ave. The existing parking supply in this area will be able to absorb one additional on street parking space. Traffic and Parking does not disagree with this assessment.

However the lack of providing all the required off-street parking spaces will result in a minor increase to vehicle queues and delays and a minor decrease in pedestrian safety in this area. Traffic mitigation to offset this lack of a required parking space and decrease in pedestrian safety and increase in vehicle congestion and queues can be provided by the applicant purchasing and delivering to Traffic and Parking a Pedestrian Impact Recovery System.

Provided the above traffic mitigation is incorporated, Traffic and Parking has no objection to the application.

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

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, 5.1 & 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 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 alteration to the rear egress stair would not increase the nonconforming nature of the house. The structure along the nonconforming side yard would only increase in height by one story and increase in length towards the back of the property by just over one foot.

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 Applicant submitted a memo from a traffic engineer that states that based on the multiple public transportation options that would serve to reduce parking demand in this area, and the significant number of available on-street parking spaces in the area, it is expected that the existing on-street parking supply will be more than sufficient to support the conversion of the property from a 2-unit residential building to a 3-unit residential building. The Traffic and Parking Department stated that the lack of providing all the required off-street parking spaces will result in a minor increase to vehicle queues and delays and a minor decrease in pedestrian safety in this area. To mitigate the impact of a lack of a required parking space, decrease in pedestrian safety and increase in vehicle congestion and queuing a condition of approval is for the Applicant to purchase and deliver to Traffic and Parking a Pedestrian Impact Recovery System (in crosswalk pedestrian sign).

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 to alter the rear stairway enclosure and not provide an additional parking space 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.

The proposal is consistent with the Residence C zoning district as the special permits will allow the house to become a three-family dwelling which is allowed in the district.

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 memo from the traffic engineer supports the request to not add an additional parking space on site. The purpose of §9.1 is met in utilizing on-street curbside parking, reducing hazards to pedestrians with the condition for an in cross walk sign, and reducing the impact of additional pavement in the City.

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 small addition to the rear stairway enclosure is compatible with the design of the house and will not be visible from the public right of way. The roof will have the same slope and it will be lower and subordinate to the main house.

### III. RECOMMENDATION

#### Special Permit under §4.4.1 and 9.13

Based on the materials submitted by the Applicant, 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 material 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	<p>Approval is for the small addition to the rear of the structure and to not provide one parking space that is required to convert the structure from a two- to a three-family structure. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>March 14, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Feb 25, 2013</td> <td>Plans submitted to OSPCD (Site Plan*)</td> </tr> <tr> <td>Feb 21, 2013</td> <td>Plans submitted to OSPCD (Site Plan C1.1, Proposed Floor Plans A1.1-1.2, Proposed Elevations A2.1, Sections A3.1, Framing Plan S1.1, Existing Floor Plan X1.1-1.2, Existing elevation X2.1)</td> </tr> </tbody> </table> <p>Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	March 14, 2013	Initial application submitted to the City Clerk's Office	Feb 25, 2013	Plans submitted to OSPCD (Site Plan*)	Feb 21, 2013	Plans submitted to OSPCD (Site Plan C1.1, Proposed Floor Plans A1.1-1.2, Proposed Elevations A2.1, Sections A3.1, Framing Plan S1.1, Existing Floor Plan X1.1-1.2, Existing elevation X2.1)	BP/CO	ISD/PIng.	
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2	*The "proposed parking" noted on the Site Plan dated will not be implemented.	Perpetual	PIng/ISD									
3	The Owner shall install a code compliant fire alarm and sprinkler system	CO	FP									
4	The Owner shall purchase and deliver to Traffic and Parking a Pedestrian Impact Recovery System (in cross walk sign).	CO	T&P									
5	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	PIng.									

