



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2012-30

Date: May 10, 2012

Recommendation: Unable to Recommend

PLANNING STAFF REPORT

Site: 8 Mount Vernon Street

Applicant Name: Fermin & Barbara Castro

Applicant Address: 8 Mount Vernon Street, Somerville, MA 02145

Property Owner Name: Fermin & Barbara Castro

Property Owner Address: 8 Mount Vernon Street, Somerville, MA 02145

Alderman: William Roche

Legal Notice: Applicants and Owners, Fermin and Barbara Castro, seek a Variance under SZO §5.5 and §10.7.1 to construct an 8.5 foot wall along the rear lot line.

Zoning District/Ward: RB / Ward 1

Zoning Approval Sought: Variance under SZO §5.5 and §10.7.1

Date of Application: April 17, 2012

Dates of Public Hearing: Zoning Board of Appeals – **May 16, 2012**

I. PROJECT DESCRIPTION

1. Subject Property: The subject property is a two-family dwelling located on a 5,000 square foot lot in the East Somerville neighborhood near Broadway and Interstate 93. The property has 2,982 square feet of living space and the parcel contains a moderate amount of landscaping. The structure is 2½ stories in height with an end gable and two rear ells or additions. The building is located within a Residence B district and abuts similar residential properties on either side.

This c. 1850 building is designated historic at both the local and national level. Historic designation at the local level requires the Applicant to submit an application to the Somerville Historic Preservation Commission and receive a Certificate before any work begins. Historic designation at the national level, in this instance, identifies the property as worthy of preservation according to Federal



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government standards. The dwelling retains a high degree of historic integrity due to the Greek Revival design and workmanship, as well as for its association with Ebenezer Davis, an early member of the East Somerville community. Although this building is a single-building local historic district, several other designated local and National Register historic buildings are also located on this section of Mt. Vernon Street.

The site has not received any prior zoning relief. In 2005, the current Applicants did apply under SZO §9.13.b to extend their curb cut from 10 feet to 19 feet. The Applicants were denied their request at that time.

2. Proposal: The Owners/Applicants propose to add a new portion of wall to the existing wall on the rear lot line that separates this residential property from the parking lot for the Mount Vernon Restaurant located along Broadway. The current wall was constructed on the subject parcel prior to the Applicants taking ownership of 8 Mt. Vernon Street. The existing partition is 50 feet in length and composed of 4 feet (in height) of poured concrete with a 4'-3" chain link fence situated on top. The chain link portion is partially screened by removable slats.

The Applicants propose to add a new portion of wall to the existing wall on the side that faces Mt. Vernon Street. The improved wall would be given a flagstone veneer which would eliminate views of the parking lot and reduce sounds coming from the same direction. The new portion of this wall would result in the same height as the current wall and fence while only the width would be altered. Alterations to the wall would enable the width to become consistent for the entire height of the wall. The new portion of wall would begin four feet up from the ground, where the poured concrete reaches four feet in height and transitions into chain link. The new portion of the wall would be constructed of concrete block that is 15.5" x 7.5" x 4" and layered on top of the poured concrete. The new section of wall would be anchored to the iron posts that support the chain link fence. Wire clamps, ¼ inch in diameter, would fasten around the iron posts to tie rods located in the concrete blocks. These blocks would then be filled with concrete that is to be prepared on site. Once the concrete block has been layered to the height of the current wall, the face of the entire 50 foot long wall will be completely covered in flagstone.



Left: 8 Mt. Vernon Street, primary and right side façade with fence visible in the backyard.

Right: 8 Mt. Vernon Street, photo taken from Mt. Vernon Restaurant illustrating view of fence from parking lot.

3. Nature of Application: The Somerville Zoning Ordinance, under §10.7.1, limits maximum fence heights to 6 feet above the existing grade. The Applicants will need a Variance to modify a wall that extends beyond 6 feet in height. The Applicants indicate on their application that the current wall restricts

the privacy of the backyard, does not address the disruptive noise level of the parking lot, and is an interruption to the historical context of the building as well as the surrounding parcels, many of which are also a historic district. The wall modifications would allow the Owners/Applicants to regain privacy of their backyard, address the current noise level, and present a more appropriate backdrop for their historic building than the current wall.

4. Surrounding Neighborhood: The subject property is located in an RB district within the East Somerville neighborhood near Broadway and Interstate 93. The building is in close proximity to various commercial uses along Broadway as well as a number of single-, two-, and three-family dwellings located along Mt. Vernon Street. The buildings that abut on either side are similar in size and style to the subject parcel.

5. Impacts of Proposal: The proposal to add a new portion of wall at the rear lot line of the subject parcel will not be detrimental to the structure or the surrounding properties.

The design for the proposed wall will enhance the property to allow privacy for those who utilize the backyard, address the present noise that permeates from the Mt. Vernon Restaurant parking lot, and provide a more appropriate backdrop for the historic Mt. Vernon streetscape.

The Applicants indicate that there would be no adverse impact as the Mt. Vernon Restaurant would see a minimal change in the wall from the vantage point of the parking lot. The new portion of wall would extend to the height of the current wall and fence and would only be visible from the view of the Applicants and the abutting parcels along Mt. Vernon Street.

6. Green Building Practices: The Applicants do not specify any green building practices. However, instead of demolishing the existing wall and constructing an entirely new wall, the Applicants propose to add a new section of wall to the existing wall and eliminate the need for any demolition.

7. Comments:

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

Ward Alderman: In an email to Staff dated Thursday, April 26, 2012, Alderman Roche stated that he was in support of this project.

Historic Preservation: The Applicants came before the Somerville Historic Preservation Commission (SHPC) on May 17, 2011 to present their current proposal. The SHPC voted unanimously (7-0) to grant the Applicants a Certificate of Appropriateness to cover a concrete wall and chain-link fence at the rear of the property with fieldstone to the height of 6 feet. The SHPC is unable to grant a certificate for the actual height of the wall. This needs a variance and is not within the jurisdiction of the SHPC to grant. As the Certificate will expire May 17, 2012, the Applicant will need to request an extension from the SHPC Chair or appear again before the Commission.

Engineering: Has been contacted but has not yet provided comments.

II. FINDINGS FOR VARIANCE (SZO §5.5.3 and §10.7.1):

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 Applicants' responses to these questions on their application form attached to this Staff Report.

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 recognizes that when historic residential properties, such as the subject parcel, abut commercial businesses located in a Transit Oriented Development district, conflicts often arise over land use which can, in turn, call for actions that would allow these uses to coexist in a manner that is not disruptive to the use of either property.

Due to the nature of the business conducted by the Mt. Vernon Restaurant and the Applicants desire for a quiet and peaceful rear yard, these conflicting uses and their proximity to each other cause a substantial loss of privacy not experienced by other neighboring properties. Planning Staff finds that the proximity of these conflicting uses causes special circumstances relating to structures which especially affect the subject land and structures, but not affecting generally the zoning district, causing a substantial hardship for the Applicants.

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 Applicants indicate on their application that the current wall presents a hardship because it restricts the privacy of the backyard, does not address the disruptive noise level of the parking lot, and is an interruption to the historical context of the building as well as the surrounding parcels. The existing wall, composed of poured concrete and chain link fence, provides no aesthetic value nor does it improve privacy. The proposed wall modifications would allow the Owners/Applicants to regain privacy of their backyard, address the current noise level, and present a more appropriate backdrop for their historic building than the current wall and fence. However, erecting a more impermeable wall does not necessarily suggest it is the minimum Variance necessary to grant reasonable relief to the Applicants or that it is necessary for the Applicants to have a reasonable use of the building or land. While the Applicants would have more reason to make use of their backyard as there would be more privacy and less noise, a reasonable use of the land does already exist. Therefore, Staff is unable to determine if the requested wall height Variance is the minimum Variance necessary to grant reasonable relief to the Applicants or if it is the necessary amount for reasonable use of the land.

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 new portion of wall would only be visible from Mt. Vernon Street, so there will be no detriment to the public welfare through any changes visible from the parking lot of the Mt. Vernon Restaurant. The final result will enhance the aesthetic of the rear of the property as well as allow the Owners/Applicants to regain privacy of their backyard, address the disruptive noise level that permeates from the parking area of the Restaurant, and present a more appropriate backdrop for their historic building than the existing

wall and chain link fence. Staff finds that the request for the Variance would be in harmony with the general purpose and intent of the Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.

III. RECOMMENDATION

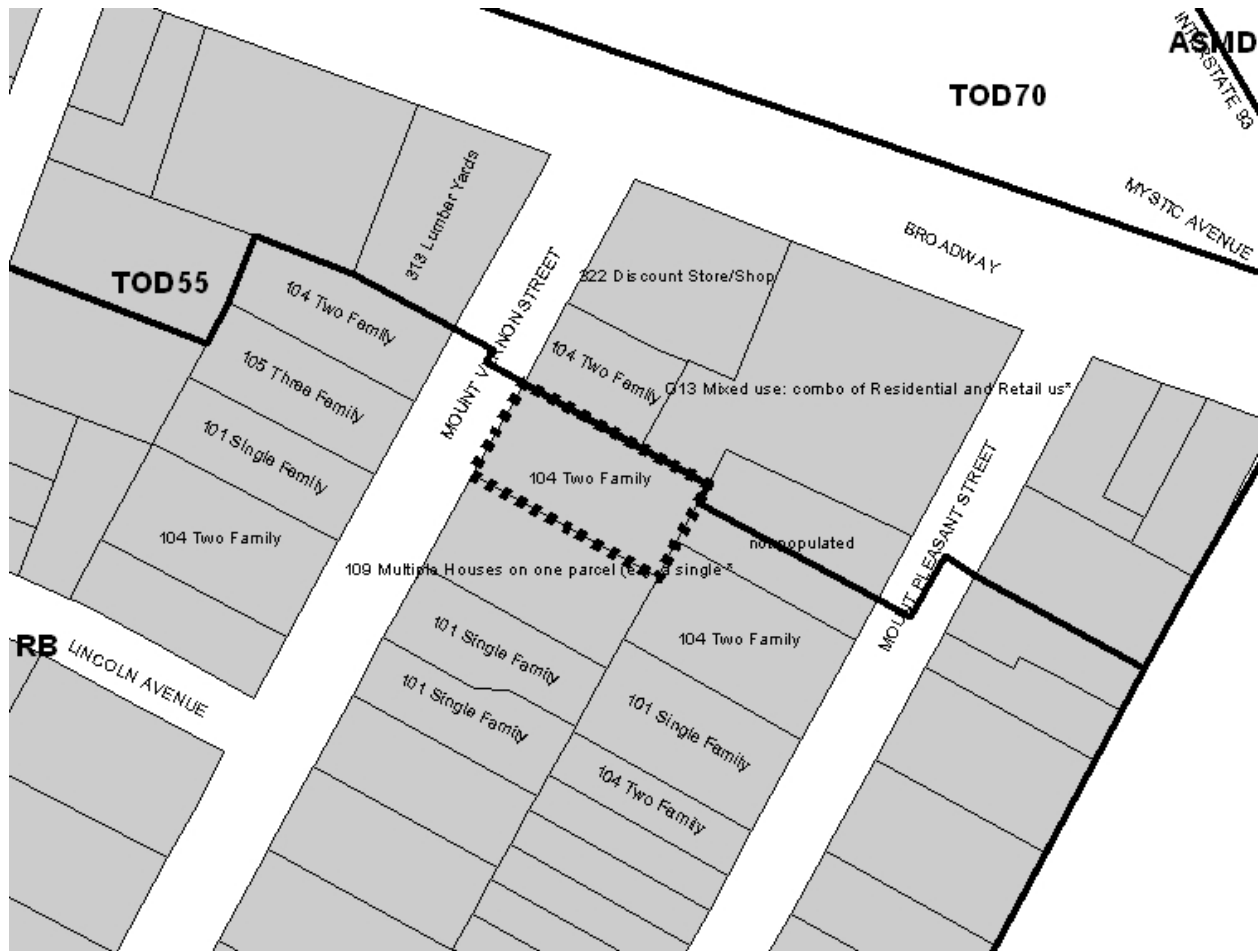
Variance under SZO §5.5.3 and §10.7.1

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff is **UNABLE TO RECOMMEND** approval of the requested **VARIANCE** at this time.

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	Approval is for a Variance to construct an 8.5 foot wall along the rear lot line of 8 Mt. Vernon Street. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(April 17, 2012)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>June 22, 2012 (April 26, 2012)</td><td>Plot plan submitted to OSPCD</td></tr><tr><td>(April 26, 2012)</td><td>Site plans submitted to OSPCD (8 Mt. Vernon Street, & Specifications)</td></tr><tr><td>(April 26, 2012)</td><td>Additional site plans submitted to OSPCD (Sheets 1, 2, 3, & 4)</td></tr></table>				Date (Stamp Date)	Submission	(April 17, 2012)	Initial application submitted to the City Clerk’s Office	June 22, 2012 (April 26, 2012)	Plot plan submitted to OSPCD	(April 26, 2012)	Site plans submitted to OSPCD (8 Mt. Vernon Street, & Specifications)	(April 26, 2012)	Additional site plans submitted to OSPCD (Sheets 1, 2, 3, & 4)
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Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.														
2	Prior to obtaining a building permit, the Applicant shall submit to Staff written acknowledgement of the proposal from the Mt. Vernon Street Restaurant.	Prior to Bldg Permit	Plng.											
3	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP											

4	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.	
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8 Mount Vernon Street