



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-127

Date: January 31, 2018

Recommendation: SP: Conditional approval
V: Conditional approval

PLANNING STAFF REPORT

Site: 20 R Cross Street

Applicant / Owner Name: Damon Peykar

Applicant / Owner Address: 20 R Cross Street, Somerville, MA 02145

Agent Name: David Sisson, Architect

Agent Address: 238 Fifth Street, Providence, RI 02906

Alderman: Matthew McLaughlin

Legal Notice: Applicant / Owner, Damon Peykar, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure by altering a rear first-story deck and stair as well as a Variance under SZO §8.5 to increase the floor area ratio (FAR) by finishing a portion of the basement. RB Zone. Ward 1.

Dates of Public Hearing: Zoning Board of Appeals – January 31, 2018

I. PROJECT DESCRIPTION

1. Subject Property: The subject property consists of a uniquely shaped flag lot of 3,233 square feet and is situated behind 20 Cross Street. A flag lot is a parcel of land with a long slender strip (that resembles a flag pole) and extends from a main street to a rectangular portion of the lot (that resembles a flag) where a structure is situated. The narrow portion of the lot is 10 feet wide and opens to a wider portion where a three-family triple decker is situated. A fire destroyed the structure in 1999 and it was rebuilt in the same footprint. The structure includes three condominium units and each unit is on its respective floor. Unit #1 occupies the ground floor and a portion of the unfinished basement. Another portion of the basement is shared amongst the other condominium owners and is used for storage and mechanical equipment.



2. Proposal: The proposal is to finish a portion of the basement and expand an existing rear deck.

3. Green Building Practices: The application states that the project will meet energy code requirements and no green building practices are proposed.

4. Comments:

Ward Alderman: Alderman McLaughlin has been informed of this proposal and has stated that he has no objections to the proposal.

II. FINDINGS FOR SPECIAL PERMIT (SZO §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."*

The structure is currently nonconforming with respect to the following dimensional requirements: lot area, lot area per dwelling unit, landscaped area, pervious area, rear yard setback, right side yard setback, street frontage, and number of parking spaces.

Section 4.4.1 states that “[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

The proposal to extend the rear deck will impact the following nonconforming dimensions: landscaped area, rear yard setback, and right side yard setback. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

	<i>Existing</i>	<i>Proposed</i>	<i>Required</i>
Landscaped area	22%	19%	25%
Rear yard setback	13.5 feet	8 feet	20 feet
Right side yard setback	1.8 feet	1.8 feet	10 feet

Each unit in the dwelling has two bedrooms, which causes the site to require five off-street parking spaces (rounded up from 4.5). The proposal will add a third bedroom in the basement that will be allocated to the

first floor unit, which keeps the number of required off-street parking spaces at five; therefore, no parking relief is required.

In considering a special permit under §4.4 of the SZO, Staff finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal would allow for the first floor to have rear access to the outdoor because the existing deck does not provide that option. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for ground coverage, building height, front yard setback, and left side yard setback will continue to be conforming to the requirements of the SZO.

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 promote 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 lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the RB district, which is, "to 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."

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."*

Surrounding Neighborhood: Cross Street is comprised of a mix of multi-family residential dwellings, educational buildings, and commercial businesses.

Impacts of Proposal (Design and Compatibility): The proposed work will not have any impact on the front of the structure and the proposed work to the rear of the deck would not be visible from Cross Street.

5. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

6. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, and preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups.*

III. FINDINGS FOR VARIANCE (SZO §5.5):

A Variance (§5.5) is sought to increase the floor area ratio (FAR) from 0.89 (2,880 square feet) to 1.04 (3,363 square feet) by finishing a portion of the basement by adding 535 square feet of net floor area to the basement and removing 52 square feet of net floor area from the first floor. The total increase in net floor area is 483 square feet, which is 130 square feet over the maximum allowed FAR.

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."*

Applicant's response: This is a very small rear lot, with a unique shape and size, that appears to have been divided from the front lot at some point. The home is relatively new, but was rebuilt on the same foot print as the original home (which burned). Therefore, the preexisting lot size and home size creates a unique circumstance which is not shared by many homes in the zone. A more typical lot size would not create this hardship.

Staff's response: The subject property consists of a uniquely shaped flag lot of 3,233 square feet and is situated behind 20 Cross Street. A flag lot is a parcel of land with a long slender strip (that resembles a flag pole) and extends from a main street to a rectangular portion of the lot (that resembles a flag) where a structure is situated. The narrow portion of the lot is 10 feet wide and opens to a wider portion where a three-family triple decker is situated. The shape of this flag lot is a special circumstance that is unique within the zoning district and causes a hardship of having a reduced amount of lot area.

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."*

Applicant's response: The request, to finish a portion of an existing basement, is a reasonable request and is an amenity enjoyed by many homes in the community. This does not create any increase in density (no added units or auto traffic), or any change to the exterior of the property. The request is for 130 square feet above what is allowed by-right. Additionally, the request is not to finish the entire basement, but just a portion. We cannot reduce the amount of square footage requested, without substantially altering the proposed design.

Staff's response: The request to finish a portion of the basement by 130 square feet over what is allowed will grant reasonable relief to the owner and is the minimum necessary for the condominium owner to occupy the basement space with finished area.

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."*

Applicant's response: Granting the request for the variance will allow the owner to create additional space within his home, for his own enjoyment. The request will not create any problem with congestion, because it does not alter the required number of parking spaces (5 spaces required before the change, 5 after). The request will help create a more fire-resistant structure, as portions of the unfinished wood structure will be covered with fire-resistant gypsum board. There will be no change to light or air in the

city, as the proposed project does not alter the exterior of the home. Additionally, the proposed project will allow another bedroom in the city, which will assist with providing housing to Somerville residents at all income levels, which helps preserve and increase the amenities of the municipality.

Staff's response: Finishing a portion of the basement will be in harmony with the general purpose and intent of this Ordinance, as mentioned in Section II.3 of this report, and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.

IV. RECOMMENDATION

Special Permit under §4.4.1 and Variance under §5.5

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** and **VARIANCE**.

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 the extension of a rear deck and finishing a portion of the basement. 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>November 30, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>October 25, 2017</td><td>Modified plans submitted to OSPCD (A.0, A2.0, A3.0, A4.0, A5.0, A5.1, A6.0, and A8.0)</td></tr></table>				Date (Stamp Date)	Submission	November 30, 2017	Initial application submitted to the City Clerk’s Office	October 25, 2017	Modified plans submitted to OSPCD (A.0, A2.0, A3.0, A4.0, A5.0, A5.1, A6.0, and A8.0)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.							
Construction Impacts										
3	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.							

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	
Design				
5	Applicant shall provide final material samples for windows and decking to Planning Staff for review and approval prior to the issuance of a building permit.	BP	Plng.	
Site				
6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
Miscellaneous				
7	Granting of the applied for use or alteration does not include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Ongoing	ISD / Plng.	
8	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.	Cont.	ISD	
Public Safety				
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
11	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
Final Sign-Off				
12	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.	

