



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2017-68
Site: 14 Bradley Street
Date of Decision: September 27, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: September 29, 2017

ZBA DECISION

Applicant Name: David Einis
Applicant Address: 47 Hillcrest Road, Weston, MA 02493
Property Owner Name: Garrett Realty, LLC
Property Owner Address: 47 Hillcrest Road, Weston, MA 02493
Agent Name: N/A

Legal Notice: Applicant, Garrett Realty, LLC, and Owner, David Einis, seek Special Permits under §4.4.1 of the SZO to construct a dormer within the right side yard setback, build egress stairs within the right side yard setback, and for the upward extension of the right and front non-conforming setbacks. Special Permits are also sought to increase the number of residential units from one to two.

Zoning District/Ward: RB zone/Ward 4
Zoning Approval Sought: §4.4.1 & §7.11
Date of Application: June 19, 2017
Date(s) of Public Hearing: September 6, 2017 and September 27, 2017
Date of Decision: September 27, 2017
Vote: 4-0

Appeal #ZBA 2017-68 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 6, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant's project state is, verbatim, as follows as detailed on their application:

"The proposed structure is a two-unit house, with three stories, and we propose to dormer both sides of the existing roof. We plan to demolish the existing deck in the rear and expand the existing structure outwards in the rear of the building so it's square with the existing vestibule in the rear. This addition will extend from the basement to the third floor. Additionally, we plan to demolish the basement entrance in the rear of the building which juts out a few feet into the parking area behind the house, and will also finish the basement to make it habitable living space. We also plan to build above the existing porch in the front of the building to make it habitable living area."

Garage:

The existing four-bay cement-block garage will remain with the property after the proposed project is completed. The ability to park four cars (two per unit) on-site negates the need for any parking relief. The Applicant proposes improving the visual appearance of the garage as well as its usability by installing double garage doors. This unusually-fortunate situation allows for the property to continue keeping vehicles off the street and on the property, even with the increase in number of living units.

Main Structure:**Lot area per dwelling unit:**

The Applicant proposes converting this single-family home into a two-family structure, a use which is allowed in the RB zoning providing that the property meet the lot area per dwelling unit (lot area per d.u.) requirement. The RB zone required a lot area per d.u. ratio of 1,500 square feet of lot per dwelling unit on the property. Even with increasing the number of units on this parcel, the property exceeds the lot area per d.u. ratio at 1,634 square feet per d.u.

Side yard setbacks:

Dormers are proposed on the right and left elevations of the structure. On the left elevation, the Applicant proposes three individual gabled dormers that together do not exceed 50% of the roof plane to which they are to be attached. The dormer on the right elevation is proposed as a shed dormer that does not exceed 50% of the roof plane to which it would be attached. It is this right elevation shed dormer along with the proposed egress stairs on that same elevation that are the triggers for the special permit for side yard setbacks.

The right side yard setback is currently 3.6 feet in a district where an 8-foot minimum setback is required for a 2 1/2-story structure unless the parcel is narrow, which this parcel is. The minimum-required frontage in this zone is 50 feet. 14 Bradley presents a 37.50-foot frontage. Under *Section 8.5, item H, footnote 10* of the SZO, an Applicant may reduce the required side yard setback by two inches for every foot by which the lot is narrower than 50 feet. However, under no circumstances can the setback be less than 5 feet.

In the case of 14 Bradley Street, the Applicant may reduce their required side yard setback by 25 inches (two feet, one inch). However, even with this reduction in required side yard setback, at 3-feet, 6-inches, the right elevation of the property still violates the side yard setback, thus triggering the special permit request.

The proposed egress stairs that are proposed for the right elevation of the property will likely rest directly on the property line. Because of this encroachment on the property line, The Board strongly recommends that the Applicant re-consider where the egress stairs are located.

Front yard setback:

The existing front façade presents a gabled face to the street. A square, two-story bay window is located on the left front façade while the right front façade presents an enclosed entryway with a small open deck directly above. The Applicant proposes changing the front façade such that the bay window area is transformed into a nearly 2.5-story gabled projection that extends to the edge of the right wall plane of the house.

The Applicant also proposes an upward extension of the entryway such that a two-story, gable-roofed projection is created that extends to the right plane of the house. Both of the front façade changes above result in an upward extension of the non-conforming front yard setback and an upward extension of the non-conforming right side yard setback. As noted earlier, the right side yard setback is 3.6 feet. The front yard setback, at its shortest point is 3.9 feet from the property line.

FAR:

While the FAR of this property is increased due to the rear and front additions, right and left dormers and finishing the basement, the total increase in FAR is less than 25%, thus no special permit is triggered for this work. The current FAR is .50 and the proposed FAR is .67, well below the maximum FAR of 1.0 that is allowed in the RB district.

Site:

This parcel is largely covered with bituminous material (asphalt). Asphalt current covers the entire driveway and backyard area. A (currently non-functioning) drywell is located under the bituminous material at the rear of the property. The Board requires such that all of the bituminous material is removed from the site and pervious material is used in its place in order to allow stormwater to percolate through the property and to reduce the “heat island” affect from which a city environment uniquely suffers. By conditioning these areas to present pervious material (pavers, crushed stone, etc.), the Board believes that the Applicant will achieve a far greater percentage of pervious area on the property than the 13% they have proposed (which, in itself is an increase from the 5% currently extant on the parcel).

The right elevation of the property is also covered with bituminous material. The Applicant proposes removing this asphalt as well and covering the area with crushed stone.

Existing conditions on the property allow for little vegetative growth overall or decorative landscaping in particular. The Applicant proposes increasing the landscaped area from 5% to 13%, in part through the removal of some of the bituminous material, but largely through the installation of perennial, evergreen trees and shrubs in newly-created planting areas directly abutting the two structures on the property.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §7.11):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in the relevant sections of the SZO. This section of the report goes through those sections in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicants conforms to the requirements of §4.4.1 and §7.11 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."**A. Under SZO §4.4.1**

Section 4.4.1 states that "[l]awfully existing non-conforming 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 non-conforming 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 project components triggering the need for special permit relief at 14 Bradley Street are the inclusion of a shed dormer and egress stairs within the right side yard setback, the upward extension of the non-conforming right side yard setback due to the enlargement of an existing bay and the upward extension of an existing front entryway area. Additionally, relief for the upward extension of existing, non-conforming front yard setbacks is also requested. Lastly, the Applicant seeks a special permit to increase the number of units on the site from one to two.

Regarding the right side yard setback:

The Board finds that the inclusion of a shed dormer within the non-conforming right side yard setback will not be substantially more detrimental to the site or the neighborhood than the existing conditions on the parcel. The Board finds that the proposed dormer will not exceed 50% of the roof plane to which it will be attached.

At the September 6, 2017 ZBA hearing, the ZBA determined that the Applicant should re-design the egress stairs that were originally proposed on the right elevation of the dwelling and abutting the property line. The Applicant has changed their proposal such that this right elevation egress stairs has been eliminated and a spiral egress stairs is proposed at the rear of the building.

Regarding the front yard setback:

The Board has taken a close look at numerous other structures in the immediate vicinity of this property and finds that the neighborhood contains numerous gable-fronted structures that present myriad styles of front bays, entryways, and open/closed porches and decks of varying massing and height. In general, increasing bulk and massing on the front façade is discouraged. However, The Board finds that, in this particular instance, the proposed extensions of existing non-conformities on the front of this structure will result in a style and massing of building components that will provide an upgrade to this property from both a visual and usability perspective.

The front steps are slightly set back from the public right-of-way. This condition will remain unchanged in the proposed plans, though the new front steps will be code-compliant and visually improved which will again help aid how this structure presents along the street.

Regarding the number of units:

The Applicant proposes increasing the number of units from one to two. The RB zone allows for up to two units on one property provided that the lot area per dwelling unit ratio is not violated. As discussed earlier in this report (under item "2. Proposal"), the Board finds that the proposal does not violate the lot area per dwelling unit ratio. Moreover, the majority of other structures on Bradley Street are two-family buildings with the exception of the occasional 3-family and a series of single-occupancy-unit condo complex. The Board finds that increasing the number of units on this property from one to two units is consistent with the neighborhood and with the purposes of the RB zoning district.

Additional findings:

With regard to the request for special permits, the Board finds that the proposal will not be substantially more detrimental to the site or the neighborhood than the existing non-conforming building. The Board finds that the proposed enlargement and renovations to the main dwelling house as well as the garage will not negatively impact traffic volumes or traffic congestion. The Board finds that the increase of one living unit on this property will minimally-impact traffic flows on this street. As proposed, the project will help keep passenger vehicles off of the street. As years of City studies consistently find that this municipality is over-parked, the Board finds that the addition of one living unit to this property will add minimal additional vehicular traffic to the public streets.

Further, the Board finds that the proposed alterations to this property will not negatively impact the municipal water supply or sewer capacity. As conditioned, this property should be much-improved in its ability to percolate water through the parcel and not into the City sewer system. Construction noise is to be expected as a property is overhauled. However, after the construction period had ended, the Board finds no condition associated with this property that would increase noises or orders within the neighborhood. Moreover, the Board has conditioned that trash and recycling be positioned away from abutting properties and that they be screened.

Lastly, the Board finds that the changes in scale and visual appearance of the property will not increase shading of abutting properties and are generally in keeping with the neighborhood character.

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, as conditioned, 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 secure safety from fire, panic and other dangers; and to encourage the most appropriate use of land throughout the City.

4. Purpose of District: *The Applicant has to ensure that the project "is consistent with the intent of the specific zoning district as specified in Article 6”.*

The Board finds that the proposed project, as-conditioned, is consistent with the intent of the RB zoning 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.”

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

The proposal will not add to the existing stock of the City’s affordable housing units.

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, transform key opportunity areas, 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; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs.*

The Board finds that the proposed project complies with the purposes of SomerVision in it will add one living unit to the City’s housing stock. The Board also finds that the changes proposed to the property will visually improve the parcel in question and will provide a visual upgrade to the neighborhood as well.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Josh Safdie with Danielle Evans, Anne Brockelman, and Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the increase in number of residential units from one to two; inclusion of a dormer and egress stairs within the right side yard setback; the upward extension of the front and right side yard setbacks through front façade changes.	BP/CO	ISD/Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 19, 2017</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>August 27, 2017</td><td>Final plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	June 19, 2017	Initial application submitted to the City Clerk’s Office	August 27, 2017	Final plans submitted to OSPCD
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	June 19, 2017				Initial application submitted to the City Clerk’s Office					
August 27, 2017	Final plans submitted to OSPCD									
<u>Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.</u>										
Pre-Construction & Construction Impacts										
2	The Applicant shall, at his 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							
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./ISD							
4	Approval is subject to the Applicant’s and/or successor’s right, title and interest in the property.	Cont.	Plng./ISD	Deed submitted & application form signed						
5	All construction materials and equipment shall 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							

6	<u>Construction shall occur from 7:30am – 5:00pm Monday-Friday ONLY. There shall be no construction or construction-related work allowed on the weekends or holidays.</u>	During Construction	ISD	
7	The Applicant shall ensure that all food waste associated with construction personnel be removed from the premises at the end of each work day.	During Construction	ISD	
8	The Applicant shall, throughout the construction process, ensure that the project site remains as follows: <ul style="list-style-type: none"> - <u>ALL</u> construction debris shall be placed in dumpsters or similar at the end of <u>EACH</u> day; - Items removed from the existing building as part of the project process shall be disposed of in dumpsters <u>at the end of each day</u> and/or placed in storage off the premises. These items may include, but are not limited to: mechanicals, pipes, vents, household appliances, toilets, bathtubs, refrigerators, etc. - <u>Under no circumstances</u> shall debris from demolition, construction waste, or the like fall upon, be placed upon or otherwise encroach on abutting properties or the public way. - <u>ALL</u> hazardous material including, but not limited to, asbestos (siding, pipe wrap, insulation, etc.), oil tanks, etc., shall be removed by a licensed, insured, and qualified specialist. 	Pre-Construction & during construction process	ISD/Plng	
9	The Applicant shall submit a proposed drainage report, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	ISD/Plng/Engineering	
10	The Applicant shall contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	ISD/Engineering	
11	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
Design				

12	<p>The Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. There shall be no vinyl used on this property for siding, trim, doors or the like. Windows shall be aluminum clad. Wood or cementitious material shall be used for trim, siding, decking and the like.</p> <p>Windows shall have muntins (grids) applied to the glass. No between-the-glass grids shall be allowed. Windows shall not be tinted nor shall they convey any reflective or mirrored quality.</p>	BP	Plng/Zoning Review Planner	
Site				
13	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.	Perpetual	ISD	
14	The Applicant shall present a landscaping proposal for the front yard to Planning Staff for their review and approval. All landscaping materials screening materials and materials used for parking/driveway area shall first be reviewed and approved by Planning Staff prior to their installation and again prior to final sign-off.	BP/CO	Plng/ISD	
15	Garbage and recycling containers shall be stored out-of-view of the public way. All such containers and container areas shall be screened with either evergreen plantings (no arborvitae) or wood screening. Locations for containers shall be indicated on the final plan set submitted to ISD for building permits. Screening material shall be reviewed and approved by Planning Staff prior to installation.	Screening material: BP Installation of container site and screening: CO	Plng/ISD	
16	In addition to altering the doors on the four-bay garage, the Applicant shall improve the overall appearance of the garage building either through painting or through the application of a building material on the exterior (stucco, cementitious material, etc.). Proposed materials shall first be submitted to Planning Staff for their review and approval prior to installation.	BP	Plng/ISD	
17	All bituminous material shall be removed from the site. Crushed stone shall be installed along the right side of the property. Pervious pavers, peastone, brick, or some combination thereof shall be installed for the driveway through the turning area/drive aisle abutting the garage. Only sand or stone dust shall be used between the bricks/pavers. There shall be no cement or similar material of any kind used on this site where landscaping or pervious material is to be installed.	CO	Plng/ISD	
18	All materials proposed for the right elevation of the property (where crushed stone is proposed) and all materials for the driveway and turning area/drive aisle, paths or on-site walks shall be submitted to Planning Staff for their review and approval prior to purchase or installation.	BP	Plng/ISD	



Miscellaneous				
19	Gas and electric meters shall not be on the front of the structure. Gas and electric meters may be located on the side of the structure but shall be screened from the street by a hard, staff-approved evergreen planting. Utilities shall not be located adjacent to windows and shall not impact any parking, landscaping, or egress. The provisions of this condition may be waived Staff if the applicant submits a letter from the utility, signed by a utility representative, on utility letterhead, indicating that there is no feasible alternative to placing meters in violation of this condition.	CO	Plng/ISD	
20	Electrical conduits on the exterior of buildings shall be painted to match the color of the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng/ISD	
21	There shall be no vents or exterior pipes located on the front of the building façade. All vents and exterior pipes shall be painted or wrapped to match the color of the structure from which they protrude.	CO	Plng/ISD	
Public Safety				
22	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
23	All lighting shall be downcast and shall not spill onto the public way or onto neighboring properties in any fashion.	CO	ISD	
Final Sign-Off				
24	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.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Josh Safdie

Attest, by the case City Planner: _____

Alexander C. Mello

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

