



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2016-141

Site: 13 Dell Street

Date of Decision: February 1, 2017

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: February 14, 2017

ZBA DECISION

Applicant Name: 13-13A Dell Street, LLC
Applicant Address: 83 Maple Street, Melrose, MA 02176
Property Owner Name: 13-13A Dell Street, LLC
Property Owner Address: 83 Maple Street, Melrose, MA 02176
Agent Name: Richard G. DiGirolamo, Esq.
Agent Address: 424 Broadway, Somerville, MA 02145

Legal Notice: Applicant and Owner, 13-13A Dell Street, LLC, seek Special Permits under §4.4.1 of the SZO to alter a non-conforming structure, including FAR, and parking relief under Article 9* of the SZO.

Zoning District/Ward: RB zone/Ward 2
Zoning Approval Sought: §4.4.1 * Article 9
Date of Application: November 7, 2016
Date(s) of Public Hearing: 1/18 & 2/1/17
Date of Decision: February 1, 2017
Vote: 5-0

Appeal #ZBA 2016-141 was opened before the Zoning Board of Appeals at Somerville City Hall on January 18, 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 one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The proposal is to finish the basement, add a small balcony in the front yard setback and two dormers, one in each of the side yard setbacks.

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 Board 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."*

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."

In considering a special permit under §4.4.1 of the SZO, the Board finds that the structure is currently non-conforming with regard to FAR, front yard setback, right and left side yard setbacks. While there are other non-conformities, these are the non-conformities affected by the proposed project, thus triggering the need for relief under Special Permit.

The Board finds that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing non-conformities, despite the proposed dormers being 3.6 feet (left) and 3.0 feet (right) from the side yard setbacks. A similar, gable-roofed structure immediately to the right of 13 Dell Street also has shed dormers on both the left and right elevations.

The difference here is in the scale and length of those dormers versus the ones proposed for 13 Dell Street. The abutting property presents bi-lateral shed dormers that extend almost the full plane of the roof, making the structure appear as though it has "wings" atop its roof. In contrast, the smaller dormers proposed for 13 Dell are, 50% or less of the length of the roof plan to which they will be attached and are set back several feet from the front façade of the house. Since dormers that present without windows are not approved, Staff has included conditions that address the visual appearance of the dormer that sits three feet from the property line.

The proposal includes the addition of a small, open deck within the front yard setback. Front decks or porches on second or third floors are common throughout the City. The majority of the front decks found n

Dell Street have been enclosed over the years, something that would not be permitted today. The Board finds that the small, open deck proposed on the right front façade is not substantially more detrimental to the site or the surrounding neighborhood than existing conditions. Further, the Board finds that the proposed deck will offer some additional outdoor space for the residents of this unit and has the possibility of encouraging interaction between the residents and the public on the abutting public ways.

With regard to finishing the basement, the Board finds that, since the property is currently over the FAR and all of the changes with regard to the basement will occur within the confines of the building (with the exception of egress windows), the proposed changes will not be substantially more detrimental to the site or neighborhood. Further, the Board finds that finishing the basement provides the property owners with a reasonable accommodation to increase the livable area in their unit.

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 Board finds that the proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to the purposes of the Ordinance are to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the City.

The Board finds that 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."*

For a full description of the findings with regard to site and area compatibility, please see item 2 above which addresses related features found in the immediate Dell Street neighborhood.

The updated plan set provided by the Applicant since the January 18, 2017 ZBA hearing shows adjustments to parking and landscaping. Sheet A-0 proposes a parking space in the left front yard of the property. Front yard parking is not permitted in Somerville any longer. Moreover, a new curb cut would need to be made in order to accommodate this parking space and the existing street tree would need to be removed. The Board does not support the front yard parking space, the removal of a street tree nor a new curb cut (whose ultimate permission would need to be granted by the Engineering Department). The Board finds that, overall, this proposed front-yard parking space is incompatible with the surrounding neighborhood as well as with the overall planning goals of the City.

The updated plan set contains additional landscaping information on page A-0. The Board finds that, while it may be argued that the pavers are an improvement from the currently-existing asphalt located in the same area, the pavers are still bringing in a hard surface in lieu of surfaces with additional pervious qualities to help soften the look of the property from the street and provide natural water percolation through the lot. The Board has conditioned the landscaping plan to include additional vegetation along the right elevation, pea stone or field/flagstone walk along the same elevation, additional flora in the proposed front parking area and a 4-foot fence along the property's frontage.

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

There will be no impact on the affordable housing stock.



7. **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 areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The project will have no impact on the SomerVision Plan.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Danielle Evans made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is to finish the basement, add two dormers and second floor deck over the front porch.	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>11/11/2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>1/5/2017</td> <td>Certified plot plan submitted to OSPCD</td> </tr> <tr> <td>1/23/2017</td> <td>Updated plans submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	11/11/2016	Initial application submitted to the City Clerk's Office	1/5/2017	Certified plot plan submitted to OSPCD	1/23/2017	Updated plans submitted to OSPCD
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Any changes to the approved plans must first be submitted to Planning Staff to determine if they are de minimis in nature PRIOR to their being implemented.												
2	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.									
3	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									
4	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									
5	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Cont.	Plng.	Deed submitted & application form signed								
6	All smoke detectors shall be hard-wired.	CO	FP / ISD									
7	The area shown as office space in the basement shall never become a bedroom.	Ongoing	Plng.									
8	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.									
Design												
9	The structure shall be re-sided with wood or cementitious siding. No vinyl or aluminum siding shall be allowed.	CO	ISD/Plng									
10	The dormer on the right elevation shall include two fire-rated, inoperable windows as allowed by building code. The Applicant shall consult with ISD as to the required specs											
11	All windows shall be two-over-one with dark sashes, dark spacers between the glass, and dark grids that are applied to the windows. No between-the-glass grids (mullions) shall be allowed.											
12	Window glass shall not be tinted in any way or present mirrored or distorted reflective qualities											

Site			
13	Applicant shall provide final material samples for siding, trim, windows, and doors (to the Design Review Committee for review and comment and) to Planning Staff for review and approval prior to construction.	BP	Plng.
14	All trim shall be wood or composite material. No vinyl or pressure-treated wood shall be permitted	CO	ISD/Plng.
15	The Applicant shall submit a final landscaping plan to Planning Staff for their review and approval.	BP	ISD/Plng
16	No front-yard parking shall be allowed.	Perpetual	
17	No curbs cuts to the property shall be allowed	Perpetual	
18	The right elevation of the property shall be landscaped. A pea stone path shall be installed along this elevation to provide access from the front to rear of the property. A flagstone or fieldstone access path shall also be considered. In either case, vegetation shall be installed along this elevation of the property. All materials, design, and vegetation are first subject to Planning Staff review and approval.	CO	Plng/ISD
19	Landscaping shall be installed in the area proposed for front yard parking. All materials, design and vegetation are first subject to Planning Staff review and approval.	CO	Plng/ISD
20	A 4-foot tall fence shall be installed along the property frontage where the Applicant's property meets the City sidewalk. This fence shall extend the length of the frontage, breaking only for the front steps. A gate shall be installed on the right side of the frontage in order to provide access to the rear of the property. The fence shall be made of natural wood and the style and design of said fence shall first be reviewed and approved by Planning Staff.	CO	Plng/ISD
21	All landscaping materials, including hardscape, vegetation, design, and similar shall be first subject to the review and sign-off of Planning Staff, prior to installation.	CO	Plng/ISD
22	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards	Perpetual	Plng. / ISD
23	All exterior lighting shall be downcast and light cast there from shall not spill onto neighboring properties in any way	CO/Perpetual	Plng. / ISD
24	Any new driveways, walkways and patios shall be made of pervious pavers or other permeable material first reviewed and approved by Planning Staff	CO/Perpetual	Plng. / ISD
25	Applicant shall, prior to the end of the appeal period, present an updated site plan showing the parking space removed and landscaping in its place.	BP	ISD/Plng.
26	FINAL SIGN-OFF: 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*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

