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Case #: ZBA 2017-109
Site: 57-59 Franklin Street
Date of Decision: December 13, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 26, 2017

ZBA DECISION

Applicant Name:	Mattos Franklin, LLC
Applicant Address:	57 Swam Street, Malden, MA
Property Owner Name:	Mattos Franklin, LLC
Property Owner Address:	57 Swam Street, Malden, MA
Agent Name:	Richard DiGirolamo

Legal Notice: Applicant and Owner, Mattos Franklin, LLC, seek Special Permits under §4.4.1 of the SZO to increase the FAR by more than 25%, install three front entry doors, open rear porches and install areaways within the right side yard setback. Parking relief under §9.13*. RB zone, Ward 1.

*It has since been determined that parking relief is not required for this project.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	December 13, 2017
<u>Date(s) of Public Hearing:</u>	December 13, 2017
<u>Date of Decision:</u>	December 26, 2017
<u>Vote:</u>	5-0

Appeal #ZBA 2016-109 was opened before the Zoning Board of Appeals at the Somerville High School Auditorium, 81 Highland Avenue, on December 13, 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:

1. Subject Property: 57-59 Franklin Street presents a 1 ³/₄-story Mansard-roofed 3-unit dwelling house situated on a corner lot of 2,444 square feet in the RB zone.

2. Proposal: The Applicant proposes a gut-renovation of the property and maintaining the 3-family use. The triggers for the special permit requests are described below:

FAR:

The property is located in the RB zoning district where the FAR is 1.0. The property is currently non-conforming with regard to FAR at 1.04. The Applicant proposes increasing the FAR by more than 25% to 1.45. The increase in FAR will largely be achieved through finishing the basement area.

Exterior alterations to a 3-family property

Certain exterior changes to a 3-family property require the need for special permit relief. The Applicant proposes opening the enclosed front entryway and creating three entry doors, one for each unit. The entry porch is within the front yard setback. The Applicant also proposes the addition of rear decks, and a right elevation areaway. A left front elevation areaway is proposed within the front yard setback. Additional changes are proposed to the architectural details specifically those of the second story front dormers.

Parking relief:

Staff notes that the project, as proposed, does not require parking relief. The total number of bedrooms in the property remains the same, but the distribution of them across the units is changing. This actually causes the parking requirement to go down. The analysis follows:

Dwelling Area	Existing Bdrs.	Parking Req.	Dwelling Area	Proposed Bdrs.	Parking Req.
Unit 1	4	2.0	Unit 1	2	1.5
Unit 2	1	1.5	Unit 2	2	1.5
Unit 3	1	1.5	Unit 3	2	1.5
Total: 5.0			Total: 4.5		

*Parking formula: New Parking Req. – Old Parking Req. = new spaces required**

57-59 Franklin Street: $4.5 - 5.0 = -0.5$ (this result is a negative number, therefore no parking relief is required)

**When this result is < 1 or a negative number, no parking relief is required.*

3. Green Building Practices: The application states that the project will not exceed the stretch code.

II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4):

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:

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."*

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 or 4.5 of the SZO, Staff finds that overall the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure.

The increase in living space comes through the rearrangement of the interior space and by transforming the basement area into finished, livable space. As the work being done to increase the FAR is contained within the structure and is not being gained by increasing the massing and volume of the structure through the use of additions, dormers, or similar, Staff finds that the FAR increase will not be substantially more detrimental to the site or neighborhood.

All projects are evaluated on their individual merits on a case-by-case basis. That said, Staff finds that the proposed areaway on the right elevation of the property, though eating up what little right side yard is available, provides a sufficient means of egress from the basement bedroom areas. The inclusion of exit stairs at both ends of the areaway will allow for individuals to exit onto the 57-59 Franklin parcel in an emergency. Staff is challenged by the size of the areaway proposed for the front left façade of the building and suggests that the ZBA have the Applicant consider a window well for emergency egress if such a measure will satisfy life safety requirements. This would reduce the visual intrusion of a larger areaway at the very front of the property abutting the public way.

Though the front porch will remain within the front yard setback, Staff finds that opening the front porch helps reduce the massing and bulk of the structure. Opening front porches to create a better relationship between private areas and public spaces is consistent with SomerVision and our neighborhood planning efforts.

Staff finds that the proposed rails along the new front porch and the fencing proposed around the perimeter of the property stylistically clash with the age (c. 1890) and architectural style of the property. (For example, the improvements proposed by the Applicant to the dormer fenestration on the front façade of the building are stylistically in contrast to the proposed front porch rails and fencing.)

Staff readily acknowledges that this is not a historic preservation project and that, in many circumstances, contrasting styles and materials can be complimentary to a historic structure. This is not one of those circumstances. Staff strongly recommends that the Applicant revise their proposal to include railings and fencing with vertical balusters in a material and style that is more harmonious with the structure being renovated.

Moreover, some members of the ZBA have raised life safety concerns with regard to rails and fencing of this style that create a “ladder” effect, allowing for young children to climb up them.

This issue typically comes up regarding proposals that include decks on upper stories, but concern for this style of fencing/rails is consistently raised. This being the case, Staff reiterates the recommendation that the railings and fencing be redesigned for not just the front and side elevations of the property, but for the proposed rear elevation deck railings as well.

The Applicant proposes three new entry doors under the proposed opened front porch. Staff has no objection to the installation of three front doors. However, the three doors need to be centered under the open porch on the front façade. The proposed front elevation shown on the upper left of sheet A-300 in the plan set, show that the three entry doors are not centered on the building façade.

Lastly, Staff finds that the proposed alterations will not negatively impact traffic volumes, traffic congestion, or on-street parking (the property is and will remain a two-family and the number of bedrooms within the property will remain the same). Some additional noise and potential odors may occur during the construction phase of the project but this is to be expected. As always, the public must contact ISD or 311 with any concerns of this nature before, during, and after the completion of the project. Any new residents of the structure are required to comply with all Somerville ordinances, including noise ordinances. Staff does not anticipate negative impacts on the municipal water supply and sewer given that the number of bedrooms in the property is staying the same. All relevant plans will be reviewed by the Engineering Department prior to the issuance of a building permit. Engineering will flag and address any concerns that they have in these areas.

Overall, Staff finds that the proposed alterations to this structure will visually improve the property and provide a much-needed face-lift to a parcel that has become rather challenged over time.

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 The purposes of the Ordinance are 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 facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; to protect and promote a housing stock that can accommodate the diverse household sizes and life stages of Somerville residents at all income levels, paying particular attention to providing housing affordable to individuals and families with low and moderate incomes; 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."*

The surrounding neighborhood contains a mix of residential structures of various architectural styles, including several other Mansards along the same side of the street. Overall, Staff finds that the proposed alterations to the structure and the parcel will have a positive impact on both the site and the surrounding neighborhood.

5. Housing Impact:

The proposal will not add any new dwelling units to Somerville's housing stock.

8. Somervision:

This proposal will visually improve a challenged property.

9. Impact on Affordable Housing: *In conjunction with its decision to grant or deny a special permit for a structure of four or more units of housing, the SPGA shall make a finding and determination as to how implementation of the project would increase, decrease, or leave unchanged the number of units of rental and home ownership housing that are affordable to households with low or moderate incomes, as defined by HUD, for different sized households and units.*

The project will not add to the stock of affordable housing in the City.

III. RECOMMENDATION

Special Permit under §4.4

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 PERMITS**.

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 to renovate an existing 3-family structure, increase the FAR by more than 25%, and make exterior alterations.	BP/CO	ISD/Plng.		
	Date (Stamp Date)				Submission
	October 11, 2017				Initial application submitted to the City Clerk's Office
	Any changes to the approved site plan or elevations/use must be reviewed by Planning Staff PRIOR TO their implementation on the site. Planning Staff will determine whether such changes are <i>de minimis</i> in nature or if they will need to go back to the ZBA for approval.				
	ANY changes to the conditions set forth by the ZBA in their decision, must be remanded to the ZBA for their review and approval.				
Construction Impacts					
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	Approval is subject to the Applicant's and/or successor's right, title and interest in the property.	Perpetual	Plng.	Deed submitted & application formed signed	
4	The Applicant shall, at their 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/ISD/Plng		
5	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	ISD/T&P		
Site					

6	Fencing around the property shall be appropriate to the style of the house, made of wood and shall not present a "ladder" effect. The proposed fencing, including design and materials, shall be presented to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	Plng./IS D	
7	Fencing shall be no taller than 3.5 feet within 20 feet of an intersection.	CO and Perpetual	Plng./IS D	
8	All asphalt/bituminous material shall be removed from the property.	CO/perpetua l	ISD/Pln g	
9	All fencing, hardscape and similar materials to be used around the parcel shall be presented to Planning Staff on a materials board for their review and approval prior to the issuance of a building permit.	BP	ISD/Pln g	
10	All final planting proposals shall be presented to Planning Staff for their review and approval prior to installation of the plantings. No arborvitae. Special attention shall be given to plants native to this part of Massachusetts.	Prior to installation/ CO	ISD/Pln g	
Design				
11	All materials used on the exterior of this structure shall be submitted to Planning Staff on a materials board for their review and approval prior to the issuance of a building permit.	BP	Plng./IS D	
12	Any exterior lighting installed shall be downcast and not spill onto the public way or shine into/onto abutting properties at any time.	Final sign off/Perpetua l	Wiring Inspecto r/ISD/Pl ng	
13	The front doors shall be centered along the front façade of the building under the proposed front porch.			
Public Safety				
14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
15	The building shall be sprinkled.	CO/Perpetua l	FP	
Miscellaneous				
16	The Applicant shall obtain formal address/unit numbers from the Engineering Department for each of the three units prior to the issuance of a building permit			
Final Sign-Off				
17	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.	

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Pooja Phaltankar (Alt), and Anne Brockeman with Josh Safdie and 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 **5-0** to **CONDITIONALLY APPROVE** the request along with Staff facts and findings noted above. In addition the above conditions were attached.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Anne Brockelman (Alt)
Pooja Phaltankar (Alt.)

Attest, by the Planner: _____

Alex 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



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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 _____

