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Case #: ZBA 2018-57
Site: 33 Hancock St
Date of Decision: July 18, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 23, 2018

ZBA DECISION

Applicant / Owner Name: Silva Realty 2, LLC
Applicant / Owner Address: 85 East India Row, #14B, Boston, MA 02110
Agent Name: Richard G. DiGirolamo
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: Lance Davis

Legal Notice: Applicant and Owner, Silva Realty 2, LLC, seeks a Variance* to increase the FAR such that the FAR moves from conforming to non-conforming. § 5.5 and § 4.4.1 of the SZO. RB zone. Ward 6.

*Since this legal ad was published, it has since been determined that the proposal does not need a Variance for FAR, but a Special Permit as it is already over the FAR limit for this zoning district.

<u>Zoning District/Ward:</u>	RB Zone. Ward 6.
<u>Zoning Approval Sought:</u>	§4.4.1, §7.3 §9.13
<u>Date of Application:</u>	April 12, 2018
<u>Date(s) of Public Hearing:</u>	July 18, 2018
<u>Date of Decision:</u>	July 18, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-57 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, Somerville City Hall, 93 Highland Ave, Somerville. 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 Applicant proposes renovating the building largely within the same configuration as currently exists, and to legalize the partially-finished basement. At an FAR of 1.1, the building is currently over the allowed FAR of 1.0. Due to the renovations, the FAR will increase from 1.1 to 1.3. All changes to the living space will occur within the building itself; no additions are proposed.

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 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."*

The non-conformity impacted by this proposal is the FAR. The property currently has a non-conforming FAR of 1.1. The allowed FAR in the RB zone is 1.0. With the proposed renovations, the FAR will increase to 1.3.

Section 4.4.1 states that "[l]awfully existing one-and two-family dwellings which are only used as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, extended, renovated or altered by special permit granted by the SPGA in accordance with the procedures of Article 5."

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The proposal will allow the property owner to legalize the partially-finished basement and renovate the interior of the structure in such a way that a small increase in FAR will occur. The unit count and bedroom count in the building will remain the same. These renovations are confined to the interior of the structure. The structure will continue to be used in the same manner as it has been for several years.

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 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 Board also finds that the proposal is consistent with the purpose of the RB district, which is, “[t]o 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: Hancock Street contains two-and three-family structures with several of those three-family structures found in the form of triple-deckers. Using a basement for living space is a common practice within the City. The proposal to continue the use of a partially-finished basement is consistent with other structures throughout the City. As the proposal is for interior renovations only, with the structure containing the same number of units and bedrooms as current, the Board finds that the proposed project will not have an impact on the surrounding neighborhood.

Impacts of Proposal (Design and Compatibility): See Board comments above.

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.

DECISION:

Special Permit under §4.41

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, Anne Brockelman, and Pooja Phaltankar. Upon making the above findings, Richard Rossetti made a motion to approve the request for a **Special Permit**. Elaine Severino seconded the motion. 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
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1	Approval is for interior renovations and to increase the non-conforming FAR from .1 to 1.3	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 12, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 14, 2018</td> <td>Updated plans sent to OSPCD (A-021)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 12, 2018	Initial application submitted to the City Clerk's Office	June 14, 2018	Updated plans sent to OSPCD (A-021)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA 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	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	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.	During Construction	ISD							
Miscellaneous										
5	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.	Perpetual	ISD / Plng.							
Public Safety										
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP							
7	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD							
8	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										
9	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
Danielle Evans
Elaine Severino
Josh Safdie
Anne Brockelman (*Alt.*)
Pooja Phaltankar (*Alt.*)

Attest, by City Planner: _____
Sarah White

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 _____

