



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)
POOJA PHALTANKAR, (ALT.)

Case #: **ZBA 2017-66**
Site: **21 Henderson Street**
Date of Decision: **October 4, 2017**
Decision: Petition Approved with Conditions
Date Filed with City Clerk: **October 18, 2017**

ZBA DECISION

Applicant Name: Nick Aalerud being the Trustee of the Hepplewhite Realty Trust
Applicant Address: 500 W. Cummings Park, Suite 2400, Woburn, MA 01801
Property Owner Name: Nick Aalerud being the Trustee of the Hepplewhite Realty Trust
Property Owner Address: 500 W. Cummings Park, Suite 2400, Woburn, MA 01801
Agent Name: N/A

Legal Notice: Applicant and Owner, Nick Aalerud being the Trustee of the Hepplewhite Realty Trust, seeks a Special Permit under §4.4.1 of the Somerville Zoning Ordinance (SZO) to construct a dormer on the rear of the structure within the required rear yard setback of the nonconforming structure.

Zoning District/Ward: RB zone/Ward 5
Zoning Approval Sought: §4.4.1
Date of Application: August 17, 2017
Date(s) of Public Hearing: 8/2, 8/16, 9/6, and 10/4
Date of Decision: October 4, 2017
Vote: 5-0

Appeal #ZBA 2017-66 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on August 2, 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to construct a rear shed dormer and to increase the height of the half-story by 3’-7” from 28’-2 1/2” to 31’-9 1/2”.

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 structure is currently nonconforming with respect to the following dimensional requirements: lot area, landscaped area, pervious area, front, rear, left and right yard setback, and street frontage.

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.”

The proposed dormer will be located within the required rear yard setback. The requirement is 15 feet in the RB district and the current dimension is 8.4. The height of the half-story will also increase by 3.7 feet from 28’-2 1/2” to 31’-9 1/2”. The proposal will not encroach any further into the required setbacks. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Additionally, the amount of pervious area will increase to 19% with the installation of 334 square feet of permeable pavers along the rear property line. Vegetation would be best along the property line; the Board adds a condition that a landscape plan be submitted prior to the issuance of a building permit that includes shade tolerant perennial plantings.

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 has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, FAR, and building height 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: Henderson Street is a narrow street with a mix of housing types but mostly bungalow style houses of 2.5 stories.

Impacts of Proposal (Design and Compatibility): The proposed shed dormer will be in the rear and will not be visible from the public way. The dormer slope of the dormer is appropriate and is set back from the ridge, the sides, and edge of the roof overhang. The window arrangement pattern on the front will be enhanced by the second story windows becoming more proportionate with the rest of the windows.

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

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.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Josh Safdie, and Anne Brockelman with 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the construction of a rear dormer and increasing the height of the roof. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>June 26, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 28, 2017</td> <td>Modified plans submitted to OSPCD (A1, A2, A3, X1, X2, and X3)</td> </tr> <tr> <td>May 5, 2017</td> <td>Plot Plan of Land</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	June 26, 2017	Initial application submitted to the City Clerk's Office	August 28, 2017	Modified plans submitted to OSPCD (A1, A2, A3, X1, X2, and X3)	May 5, 2017	Plot Plan of Land
	Date (Stamp Date)				Submission							
	June 26, 2017				Initial application submitted to the City Clerk's Office							
	August 28, 2017				Modified plans submitted to OSPCD (A1, A2, A3, X1, X2, and X3)							
May 5, 2017	Plot Plan of Land											
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	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									
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 siding, trim, windows, and doors to Planning Staff for review and approval prior to the issuance of a building permit. Siding shall be of a high quality and durable materials such as cementitious siding.	BP	Plng.									
Site												



6	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
7	A landscape plan shall be submitted prior to the issuance of a building permit for Planning Staff review and approval that includes shade tolerant perennial plantings.	BP	Plng.	
8	The fence in the frontyard shall be removed.	CO	Plng. / ISD	
9	The rear yard behind the house shall be landscaped area.	CO	Plng. / ISD	
Miscellaneous				
10	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.	
11	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				
12	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
13	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				
14	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
Danielle Evans

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 _____

