



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-128
Site: 370 Highland Avenue
Date of Decision: January 17, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 31, 2018

ZBA DECISION

Applicant / Owner Name: Brendan Campbell and Katherine Fiorello
Applicant / Owner Address: 370 Highland Avenue, Somerville, MA 02144
Alderman: Lance Davis

Legal Notice: Applicant and Owner, Brendan Campbell and Katherine Fiorello, seek a Special Permit under §4.4.1 of the SZO to alter a nonconforming structure by increasing the gross floor area (GFA) by constructing a two story addition on the east side of the property and a one story addition above a portion of the garage. NB zone. Ward 6.

<u>Zoning District/Ward:</u>	NB Zone. Ward 6
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 28, 2017
<u>Date(s) of Public Hearing:</u>	January 17, 2018
<u>Date of Decision:</u>	January 17, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2017-128 was opened before the Zoning Board of Appeals in the Aldermanic Chambers of Somerville City Hall, 93 Highland Avenue. 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
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DESCRIPTION:

The proposal is to construct a two-story addition on the east side of the property and a one-story addition above a portion of the garage that will be connected together and to the main house.

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 minimum rear yard setback requirement for buildings in the NB district that abut parcels in a Residential district, which have a minimum rear yard setback requirement of 15 feet. The existing garage has a rear yard setback requirement of 0.3 feet and the addition is proposed to be 16.3 feet from the rear property line.

The total increase in gross floor area (GFA) will be greater than 25%. The existing GFA is 1,917 s.f and the proposal is to add 864 s.f to increase the GFA to 2,781s.f, or 45% of the existing structure.

Section 4.4.1 states that "*Alteration, reconstruction, extension or structural change to a nonconforming one- or two-family structure not affecting the nonconforming aspect of the one- or two-family structure and where the alteration, reconstruction, extension, or structural change will comply with all current dimensional requirements of the zoning ordinance, and provided any such alteration, reconstruction, extension or structural change does not increase the Gross Floor Area of the dwelling by more than twenty-five percent (25%).*"

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 would allow for an addition to the building that will add two bedrooms, which will make the single-family dwelling more livable for the current residents. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for lot area per dwelling unit, ground coverage, landscape area, floor area ratio (FAR), building height, front yard setback, side yard setbacks, and frontage 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 avoid undue concentration of population; 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; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the NB district, which is, “to establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.”

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: The subject site is located on the south side of Highland Avenue at the intersection with West Street just outside of Davis Square.

Impacts of Proposal (Design and Compatibility): The Board finds that the design and scale of the proposed addition fits with the scale and design of the existing structure and the surrounding neighborhood. The proposed addition would comply with the required setbacks for the NB district. The location of the proposed addition would be located to the left of the house and in front of the garage, as viewed from Highland Ave; therefore, blocking the view of the garage from Highland Avenue. Although a wide side yard would be removed by the proposed addition, wide side yards are not typical along this block of Highland Avenue.

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, transform key opportunity areas, and 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.

DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, and Josh Safdie with 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 **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 two-story addition. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.											
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>November 28, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>November 16, 2017</td><td>Certified Plot Plan</td></tr><tr><td>October 30, 2017</td><td>Existing plans submitted to OSPCD (X1-X7)</td></tr><tr><td>November 12, 2017</td><td>Proposed plans submitted to OSPCD (A1-A7)</td></tr></table>				Date (Stamp Date)	Submission	November 28, 2017	Initial application submitted to the City Clerk's Office	November 16, 2017	Certified Plot Plan	October 30, 2017	Existing plans submitted to OSPCD (X1-X7)	November 12, 2017	Proposed plans submitted to OSPCD (A1-A7)
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Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.														
Pre-Construction														
2	The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction, if necessary. 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	Eng.											
Construction Impacts														
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.											
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											
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. If occupancy of a sidewalk is required, the Applicant shall obtain a police detail to ensure pedestrians are rerouted safely.	During Construction	T&P											
6	Construction vehicles shall not block any public way.	During Construction	T&P											

7	Construction debris, equipment, and staging areas shall be kept on the subject property and shall be kept clean.	During Construction	ISD	
Design				
8	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.	BP	Plng.	
Site				
9	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
10	There shall be a minimum of one tree for each 1,000 sf of required landscaped area under SZO §10.3.			
Miscellaneous				
11	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 hardy, 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 by 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	ISD	
12	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.	
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.	Cont.	ISD	
Public Safety				
14	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
15	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
16	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				
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.	



Attest, by the Zoning Board of Appeals:

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

Attest, by 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 _____

