



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2017-114
Site: 17 Lexington Avenue
Date of Decision: December 13, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: December 14, 2017

ZBA DECISION

Applicant Name: Daniel Auditore as manager of Oscar Lewis, LLC
Applicant Address: 17 Lexington Avenue, Somerville, MA 02144
Property Owner Name: Daniel Auditore as manager of Oscar Lewis, LLC
Property Owner Address: 17 Lexington Avenue, Somerville, MA 02144
Agent Name: None

Legal Notice: Applicant and Owner, Daniel Auditore as manager of Oscar Lewis, LLC, seeks a Special Permit under SZO §4.4.1 to alter a nonconforming structure by constructing a dormer* and altering the rear porch within the nonconforming left side yard and to finish the basement by increasing the nonconforming floor area ratio (FAR).

* A new dormer will not be constructed. There is an existing dormer within the nonconforming left side yard that is proposed to be extended.

Zoning District/Ward: RA Zone. Ward 5
Zoning Approval Sought: §4.4.1
Date of Application: October 26, 2017
Date(s) of Public Hearing: December 13, 2017
Date of Decision: December 13, 2017
Vote: 5-0

Appeal #ZBA 2017-114 was opened before the Zoning Board of Appeals in the SHS Auditorium, 81 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 expand the existing dormer on the left side of the ridge by 17.5 feet, finish a portion (536 square feet) of the basement, and enlarge and add a third story to the rear decks.

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, lot area per dwelling unit, landscaped area, pervious area, floor area ratio (FAR), height, front yard setback, left side yard setback, and street frontage.

The proposal will impact the following nonconforming dimensions of FAR and left side yard setback. The scope of the project that includes finishing the basement will add 536 square feet of net floor area at increases the FAR to 0.93. The extensions of the dormer and rear porch are within the nonconforming left side yard setback and will not encroach any further into the required setback. The current dimensions for the FAR and left side yard setback are 0.78 and 3.8 feet respectively and the proposed dimensions are 0.93 and 3.8 feet where 0.75 and 8 feet are the respective requirements in the RA zoning district. These alterations to a nonconforming structure require the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

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 for improvements to the dwelling units within the structure without comprising the character of the neighborhood. The proposal has been designed with setbacks that minimally impact the neighbors and the requirements for the number of dwelling units, ground coverage, rear yard setback, and right side yard setback 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 protect health; to secure safety from fire, panic and other dangers; 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 RA district, which is, “to establish and preserve quiet neighborhoods of one- and two-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: The neighborhood is comprised of numerous dwelling structures of the same style, which is a 2.5 story structure with a gable roof that have dormers on one side and a cross gable on the other side. The subject property is one of those structures. There are some other structures in the neighborhood that have extended the dormer as well.

Impacts of Proposal (Design and Compatibility): The Board finds that the proposed dormer extension and the rear porch alterations are designed to be compatible with the existing structure and the neighborhood.

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 by allowing a modest increase in living space while preserving and enhancing the character of Somerville's neighborhoods.

DECISION:

Special Permit under §4.4.1

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Danielle Evans, Anne Brockelman, and Pooja Phaltankar with Josh Safdie 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 extension of a dormer, alterations to the rear porch, and finishing a portion of the basement. 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>October 26, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>(November 27, 2017)</td><td>Modified plans submitted to OSPCD (plot plan of land, A-1, A-2, A-3, A-4, S-1, and elevation drawings)</td></tr></table>				Date (Stamp Date)	Submission	October 26, 2017	Initial application submitted to the City Clerk's Office	(November 27, 2017)	Modified plans submitted to OSPCD (plot plan of land, A-1, A-2, A-3, A-4, S-1, and elevation drawings)
	Date (Stamp Date)				Submission					
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(November 27, 2017)	Modified plans submitted to OSPCD (plot plan of land, A-1, A-2, A-3, A-4, S-1, and elevation drawings)									
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
Pre-Construction										
2	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	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.	During Construction	T&P							
Design										
6	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										
7	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD							
Miscellaneous										



8	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.	
9	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				
10	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
11	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
12	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				
13	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
Anne Brockelman (Alt.)

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 _____

