



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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Case #: ZBA 2017-74
Site: 3 Royce Place
Date of Decision: March 7, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 15, 2018

ZBA DECISION

Applicant / Owner Name: Black Wolf Special Opportunities II, LLC
Applicant / Owner Address: 325 Donald Lynch Blvd., Suite 200, Marlborough, MA 01752
Agent Name: Richard G. DiGirolamo
Agent Address: 424 Broadway, Somerville, MA 02145
Alderman: Matthew McLaughlin

Legal Notice: Applicant and Owner, Black Wolf Special Opportunity II, LLC, seeks a Special Permit under SZO §4.4.1 to alter an existing three-family structure and convert it into a two-family structure and a Special Permit with Site Plan Review (SPSR) under SZO §7.2 and a Variance under §5.5 and §8.5 to construct a single dwelling unit in a second principle structure on the lot within the required front yard setback. RB Zone. Ward 1.

<u>Zoning District/Ward:</u>	RB zone. Ward 1.
<u>Zoning Approval Sought:</u>	§4.4.1, §7.2
<u>Date of Application:</u>	July 10, 2017
<u>Date(s) of Public Hearing:</u>	11/8/17, 11/29/17, 12/13/17, 1/3/18, 1/31/18, 2/14/18, 3/7/18
<u>Date of Decision:</u>	March 7, 2018
<u>Vote:</u>	4-0

Appeal #ZBA 2017-74 was opened before the Zoning Board of Appeals in the Aldermanic Chambers, 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 perform numerous interior and exterior alterations to the existing three-family triple-decker and convert it to a two-family structure. The proposal also includes constructing a new principal structure that will be a single-family triple-decker. In total the site will include three dwelling units. The existing concrete block garage will also be renovated to include six parking bays.

FINDINGS FOR SPECIAL PERMIT (§4.4.1) SPECIAL PERMIT with SITE PLAN REVIEW (SZO §7.2):

In order to grant a special permit with site plan review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project.

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 with site plan review.”**Special Permit to alter a nonconforming structure (§4.4.1)*

The structure is currently nonconforming with respect to the minimum dimensional requirements for lot area and front, rear, and left side yard setbacks. 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 proposal to alter the existing structure by adding a rear three-story open porch and altering the front entry porch will not change any of the existing setbacks. This alteration to a nonconforming structure requires the Applicant to obtain a special permit under §4.4.1 of the Somerville Zoning Ordinance (SZO). 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.

Special Permit with Site Plan Review (§7.2)

SZO §7.2 allows for more than one principal structure per lot in the RB zoning district by Special Permit with Site Plan Review granted from the Zoning Board of Appeals.

3. **Purpose of District:** *The Applicant has to ensure that the project “is consistent with the intent of the specific zoning district as specified in Article 6”.*

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 existing natural features of the site and is compatible with the characteristics*

of the surrounding area, and that the scale, massing and detailing of the buildings are compatible with those prevalent in the surrounding area”.

Surrounding Neighborhood: Royce Place is a private way located off of Bonair Street across from the Next Wave Junior High School and Full Circle High School. The surrounding neighborhood contains a mix of building types that range from single story industrial buildings to triple-deckers.

Impacts of Proposal (Design and Compatibility): The proposal will create a new triple-decker that will match the size and scale of the existing structure on the site as well as two adjacent structures on Cross Street Place.

Impacts of Proposal (Design and Compatibility):

Special Permits with Site Plan Review applications must meet the design guidelines under SZO §5.2.4. The design guidelines for residential districts are as follows:

1. *Buildings should be generally of the same size and proportions as those existing in the neighborhood. This shall apply in cases of multi-family development as well as one-, two-, and three-family units. For example, if relatively small two- and three-family structures are common in a neighborhood where multi-family development is proposed, the multi-family development should be physically broken into components that, from a design perspective, are housed in buildings of similar width, depth, and height as those typically found in the neighborhood.*

The proposed new structure is generally the same size as the existing structure and is proportionate to other structures nearby in terms of width, depth, and height.

2. *Use of traditional and natural materials is strongly encouraged (e.g. wood clapboard, wood shingles, brick).*

The proposed material for the existing and proposed structure is horizontal cementitious siding with a 7-inch exposure. The color is to be determined.

3. *Additions to existing structures should be consistent with the architecture of the existing structure in terms of window dimensions, roof lines etc.*

N/A

4. *Although additions should not clash with or be incompatible to the existing structure, it is acceptable and even desirable for the new construction to be distinguishable from the existing building, perhaps by maintenance of design elements of the original building that would otherwise be lost (e.g. false rakes, fasciae, and the like).*

The proposed new structure maintains design elements of the existing building such as the cornice, three-story bay, covered porch and fenestration to be mirrored in a manner that is distinguishable from the existing building.

5. *Where practical, new or infill building construction should share the same orientation to the street as is common in the neighborhood. When not contrary to any other zoning law, front and side yards should be of similar dimensions as those typical in the area.*



The proposed new structure shares the same orientation to the street and similar front yard setback as the existing structure.

6. *Driveways should be kept to minimal width (perhaps a maximum of twelve feet), and be designed so that no vehicle parked on the drive may straddle the public sidewalk in any way. Low barriers or plantings may be required to separate the parking area from the pedestrian space.*

The proposal will maintain the existing garage to offer the required six parking spaces. The minimum required aisle width is twenty feet, which is proposed. Plantings are proposed to the left of the driveway to deter vehicles from straddling in front of the house, however, it is not a public sidewalk and Royce Place is private way. A fence is proposed to the right of the driveway, which will be required to be no higher than 4 feet as it is located within the front yard, to shield the trash and recycling area and will deter vehicles from parking across the front yard.

7. *Transformers, heating and cooling systems, antennas, and the like, should be located so they are not visible from the street or should be screened.*

A condition of approval is that any transformers, heating and cooling systems, antennas, and the like, should be located in a manner so that are not visible from the street or should be screened.

8. *Sites and buildings should comply with any guidelines set forth in Article 6 of this Ordinance for the specific base or overlay zoning district(s) the site is located within.*

N/A

5. Functional Design: *The project must meet “accepted standards and criteria for the functional design of facilities, structures, and site construction.”*

The project meets accepted standards and criteria for the functional design of facilities, structures, and site construction.

6. Impact on Public Systems: *The project will “not create adverse impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.”*

The proposal is not expected to create adverse impacts on the public services and facilities serving the locus, such as the sanitary sewer system, the storm drainage system, the public water supply, the recreational system, the street system for vehicular traffic, and the sidewalks and footpaths for pedestrian traffic.

7. Environmental Impacts: *“The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.”*



The proposal is not expected to create an adverse impact on the environment.

8. Consistency with Purposes: *"Is consistent with: 1) the purposes of this Ordinance, particularly those set forth in Article 1 and Article 5; and 2) the purposes, provisions, and specific objectives applicable to the requested special permit with site plan review which may be set forth elsewhere in this Ordinance, such as, but not limited to, those at the beginning of the various sections."*

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 avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

9. Preservation of Landform and Open Space: *The Applicant has to ensure that "the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of steep slopes, and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption. In addition, all open spaces should be designed and planted to enhance the attractiveness of the neighborhood. Whenever possible, the development parcel should be laid out so that some of the landscaped areas are visible to the neighborhood."*

The proposal will involve minimal grading and the quality of open space will be enhanced from its current state and will enhance the attractiveness of the neighborhood and will be visible to the neighborhood.

10. Relation of Buildings to Environment: *The Applicant must ensure that "buildings are: 1) located harmoniously with the land form, vegetation and other natural features of the site; 2) compatible in scale, design and use with those buildings and designs which are visually related to the development site; 3) effectively located for solar and wind orientation for energy conservation; and 4) advantageously located for views from the building while minimizing the intrusion on views from other buildings."*

The proposal is designed at a scale that is compatible with the use and design of other buildings in the neighborhood.

11. Enhancement of Appearance: *The Applicant must demonstrate that "the natural character and appearance of the City is enhanced. Awareness of the existence of a development, particularly a non residential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, residential neighborhoods of City property by the effective use of existing land forms, or alteration thereto, such as berms, and by existing vegetation or supplemental planting."*

The natural character and appearance of the City will be enhanced as the existing structure has not seen investment in quite some time and removing the existing asphalt and constructing a new dwelling will increase the aesthetics of the Royce Place streetscape.

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



There will be no adverse impact on the stock of affordable housing.

13. 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, 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.*

The proposal will allow for the renovations of the existing building and the construction of a new structure that will be in keeping with the character of the surrounding neighborhood.

FINDINGS FOR VARIANCE (§5.5):

A Variance (§5.5) is sought to create a new nonconformity by constructing a new structure within the required front yard setback. The new structure is proposed to be constructed 5 feet from the front property line where 15 feet is required.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

Applicant's response: The proposal is for three (3) residential units. Two (2) units will be in one building and the third unit will be in a second principle structure. The lot is multi shaped thus allowing for the two (2) building configuration.

Board's response: The lot is shaped irregularly by being exceptionally wide and shallow compared to other lots in the zoning district. The north side of the lot is 53 feet long and the south side of the lot is 74 feet long, thus creating an irregularly shaped lot with an average depth of 63.5 feet. The width of the lot is 115.91 along Royce Place and 114.2 feet along the rear. Other lots on Royce Place are also shallow; however, throughout the RB zoning district within the neighborhood there are regular shaped lots across the street on Bonair Street, Autumn Street, MacArthur Street, and Cross Street.

2. *"The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land."*

Applicant's response: The proposal will not be injurious to the neighborhood, further it will reduce massing in the East Somerville neighborhood. The neighbors prefer that the three (3) residential units not be in one structure and feel that that have the two (2) units in one building and the third in another is advantageous to the overall neighborhood.

Board's response: Given the location of existing buildings on the site and its irregular shape, it would be difficult to locate a second principle structure on the lot that could conform to the 15 foot front yard setback requirement.



3. *“The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”*

Applicant’s response: This is a neighborhood with many two (2) and three (3) family residences. The proposal is harmonious with the neighborhood as it is an RB zoning district which is a predominantly residential neighborhood. The reduction of massing in this area will be an asset to this changing neighborhood.

Board’s response: Granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposal will meet the purpose of the RB district, which includes establishing and preserving medium density neighborhoods of one-, two-, and three-family homes. The new structure will comply with all other zoning dimensional requirements. It will not be injurious to the neighborhood as there is an existing structure on the site with a 6 inch front yard and a porch that crosses over the front property line onto Royce Place, a private way. The design of the proposed structure follows a traditional Somerville triple-decker and will fit in the character of the renovations proposed to the existing structure and the surrounding neighborhood that includes other triple-deckers. Additionally, the redevelopment of the site will enhance the aesthetics of the site and the performance of stormwater infiltration will be increased with an overhaul of the landscaping.

DECISION:

SPECIAL PERMIT (§4.4.1) and SPECIAL PERMIT with SITE PLAN REVIEW (SZO §7.2) and VARIANCE (§5.5)

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, and Josh Safdie. Upon making the above findings, Richard Rossetti made a motion to approve the request for a **Special Permit** and **Variance**. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** 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 the renovation of the existing dwelling (two units) and the construction of a new triple decker (one unit). This approval is based upon the following application materials and the plans submitted by the Applicant:	CO / BP	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>July 10, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>October 18, 2017</td><td>Schematic design plan set submitted to OSPCD (A-000, C-1, A-020, EX-101, A-1000, A-102, A-300, A-301, AV-1, SS-1, and SS-2)</td></tr><tr><td>October 12, 2017</td><td>Landscape Plan</td></tr></table>				Date (Stamp Date)	Submission	July 10, 2017	Initial application submitted to the City Clerk's Office	October 18, 2017	Schematic design plan set submitted to OSPCD (A-000, C-1, A-020, EX-101, A-1000, A-102, A-300, A-301, AV-1, SS-1, and SS-2)	October 12, 2017	Landscape Plan
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October 12, 2017	Landscape Plan											
Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												
2	The Applicant must contact the Engineering Department to obtain a street address prior to a building permit being issued.	BP	Eng									
3	The Applicant shall complete the Site Plan Review Checklist and supply the information to the Engineering Office. The plans must comply with the City's Stormwater Management Policy.	BP	Eng.									
4	New sanitary connection flows over 2,000 GPD require a removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment, established by the City Engineers Office, to the City based on the cost per gallon of I/I to be removed from the sewer system and a removal ratio of 4:1. If a different ratio of removal or mitigation payment amount is adopted by the Board of Aldermen prior to the Applicant receiving a Certificate of Occupancy, payment will be adjusted to the BOA rate. The Applicant shall work with Engineering and meet this condition before a certificate of occupancy is issued.	CO	Eng.									
5	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. 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												
6	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.									

7	The Applicant shall at his 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	
8	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				
9	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction. The Applicant shall add one window on each floor above the main entry door of the new proposed triple-decker.	BP	Plng.	
10	An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground).	Final sign off	Wiring Inspector	
Site				
11	The entire asphalt parking area shall be removed and replaced with a permeable paving system.	CO	Plng.	
12	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
13	New electric, telephone, cable TV and other such lines and equipment shall be placed underground from the source or connection. The utilities plan shall be supplied to the Wiring Inspector before installation.	Installation of Utilities	Wiring Inspector	
14	Applicant will screen the dumpster with fencing that blocks any view of the dumpster itself.	CO	Plng.	
15	Applicant will supply 6 bicycle parking spaces, which can be satisfied with a U-type bicycle rack.	CO	Plng.	
Miscellaneous				
16	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	

17	Electrical conduits on the exterior facades of buildings shall be painted to match the wall material to which they are attached. Conduits are not allowed on the front of any structure.	CO	Plng.	
18	Garbage and recycling locations shall be clearly indicated on site plans. Storage areas shall be inside of the structure or shall be fully screened from view from both the public way and abutters by an appropriate material reviewed and approved by staff. The location shall not impact any parking, landscaping, or egress.	BP	Plng.	
19	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.	
20	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				
21	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
22	The existing and proposed structures shall be fully suppressed with a fire protection system.	CO	FP	
23	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
24	Any transformers should be located as not to impact the view of the building building or landscaped area, and shall be fully screened.	Electrical permits & CO		
25	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				
26	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
Elaine Severino
Josh Safdie

Attest, by City 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

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 _____

