



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

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Case #: ZBA 2017-93
Site: 34 Sargent Avenue
Date of Decision: October 4, 2017
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 18, 2017

ZBA DECISION

Applicant Name: Matt Javitch as manager of 34 Sargent, LLC
Applicant Address: 74 Warren Street, Boston, MA 02116
Property Owner Name: Matt Javitch as manager of 34 Sargent, LLC
Property Owner Address: 74 Warren Street, Boston, MA 02116
Agent Name: N/A

Legal Notice: Applicant and Owner, Matt Javitch as manager of 34 Sargent, LLC, seek a Special Permit under SZO §4.4.1 to increase the nonconforming floor area ratio (FAR) by finishing the basement and extending a dormer within the nonconforming left side yard.

Zoning District/Ward: RB zone/Ward 4
Zoning Approval Sought: §4.4.1
Date of Application: August 17, 2017
Date(s) of Public Hearing: September 27, 2017 and October 4, 2017
Date of Decision: October 4, 2017
Vote: 5-0

Appeal #ZBA 2017-93 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on September 27, 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 two hearings of deliberation, the Zoning Board of Appeals took a vote.



DESCRIPTION:

The proposal is to finish the basement to add two bedrooms and a bathroom to Unit #1, which will become a five bedroom unit. Unit #2 will be reconfigured and will remain a four bedroom unit. The proposal also includes extending the length of a dormer on the left of the ridge from four feet to ten feet. Landscape upgrades are also included in the proposal.

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, ground coverage, landscape area, floor area ratio (FAR), front, rear, left, and right yard setbacks, street frontage, and the number of parking spaces.

The proposal will impact the nonconforming dimensions of FAR and left side yard setback. The current FAR is 1.07 (2,329 net square feet), the proposal is 1.27 (2,764 net square feet), and the requirement in the district is 1.0 (2,174 net square feet). The proposed extension of the dormer will be within the required left side yard setback. The requirement for a 2.5 story structure in the RB district is 8 feet and this structure has a left side yard of only 1.3 feet.

The site currently has no landscaped or permeable area where 25% and 35% are the respective requirements in the RB district. The proposal will increase the landscaped area from 0% to 15% and the permeable area from 0% to 22.8% by removing the existing concrete and replacing it with landscaping beds, a pea stone walkway, and a permeable paver apron.

These alterations to a nonconforming structure requires 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 has been designed with setbacks that minimally impact the neighbors and the requirements for number of units, pervious area, and 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 protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; 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.

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: Sargent Ave is a residential street of single, two-, and three-family dwellings of structures that range a mix of two, two and one-half, and three story structures.

Impacts of Proposal (Design and Compatibility): The existing dormer is 4 feet wide and is proposed to be extended by 6 feet to become 10 feet wide. The dormer will be set back from the ridge, the edge of the eaves, and the front of the house. A faux window will be added to break up the massing of the dormer. The Board finds that the proposed modifications are designed in a manner that is compatible with the characteristics of the surrounding area.

The landscape plan proposes a planter box in the front yard on top of the concrete, removing the concrete and installing planting beds along the right side, and a pea stone walkway along the right side. Planning Staff recommends removing the concrete in the front yard and installing a planting bed directly into the ground; however, the applicant's structural engineer is concerned that removing the concrete in the front might damage the foundation as that concrete slab is believed to provide some degree of lateral support for the foundation. The Board believes that if the slab is in fact providing support for the foundation, then the foundation should be repaired so that it can support itself and the building without the aid of concrete slabs. The Board adds a condition to remove the concrete in the front yard to install a planting bed directly into the ground.

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: 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 extension of the dormer and finishing the basement. 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>August 17, 2017</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(September 14, 2017)</td> <td>Modified plans submitted to OSPCD (Plan of land, 0.1, 0.2, D1.1, D1.2, D2.1, A1.1, A1.2, and A2.1)</td> </tr> <tr> <td>September 29, 2017 (October 3, 2017)</td> <td>Proposed landscape plans</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	August 17, 2017	Initial application submitted to the City Clerk's Office	(September 14, 2017)	Modified plans submitted to OSPCD (Plan of land, 0.1, 0.2, D1.1, D1.2, D2.1, A1.1, A1.2, and A2.1)	September 29, 2017 (October 3, 2017)	Proposed landscape plans
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Any changes to the approved elevations/use 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	
8	The concrete in the front yard shall be removed and a landscaping bed shall be installed. The concrete within the right side yard shall also be removed (with the exception of a small pad in the rear for trash storage) and landscaped according to the plan.	CO	Plng.	
9	The brick front steps and retaining wall in the front yard shall be repointed.	CO	Plng.	
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	
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*
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 _____

