



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2018-81
Site: 41 Thorndike Street
Date of Decision: November 7, 2018
Decision: Petition Approved with Conditions
Date Filed with City Clerk: November 14, 2018

ZBA DECISION

Applicant Name: Robert J. Granara, Jr.
Applicant Address: 36 County Road, Reading, MA 01867
Owner Name: Robten Realty, LLC
Owner Address: 36 County Road, Reading, MA 01867
Alderman: Lance Davis

Legal Notice: Applicant and Owner, Robert J. Granara, Jr. seeks special permits to construct dormers within the side yard setbacks under §4.4.1 and §8.5 of the SZO. RB zone. Ward 6.

Since the publication of this legal ad, the property has been sold to a new owner, James Donn, 14 Dadant Drive, Wilmington, MA. The new owner is proceeding with the same proposal as advertised in the legal notice above. A copy of the deed has been submitted to the Planning Office for the permanent file.

<u>Zoning District/Ward:</u>	6
<u>Zoning Approval Sought:</u>	§4.4.1 and §8.5
<u>Date of Application:</u>	June 14, 2018
<u>Date(s) of Public Hearing:</u>	8/8, 8/22, 9/5, 10/17, 10/24, 11/7
<u>Date of Decision:</u>	November 7, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-81 was opened before the Zoning Board of Appeals in the Aldermanic Chambers at Somerville City Hall on October 8, 2018. 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. On November 7, 2018 the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The Applicant proposes constructing a right elevation dormer that is within the right side yard setback. The house is, and shall remain, a single-family structure. It does not have sufficient lot area to meet the lot area per d.u. requirement for anything more than a single-family home.

The Applicant also proposes re-landscaping the property, finishing the basement, and adding a window well. However, it is just the right elevation dormer that triggers the need for a special permit.

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." Further, Section 4.4.1 of the SZO 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."*

Section 4.4.1 of the SZO allows for legally-existing, non-conforming one- and two-family residences to be enlarged by Special Permit as long as the proposed changes do not create a situation that is more detrimental to the site or surrounding neighborhood than current conditions.

The non-conformity impacted by the Applicant's proposal is the right side yard setback. That setback is non-conforming at 4.4 feet in a zoning district (RB) where a minimum of eight (8) feet is required. The Applicant proposes a dormer on right side roof plane of the main gabled roof. As proposed, the bottom edge of the dormer will be flush with the right façade of the house. The existing eave will remain. The proposal retains the non-conforming 4.4-foot right side yard setback but the dormer adds more massing to this portion of the building.

In considering a special permit under §4.4.1 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the site or neighborhood than the existing structure. The proposal is a reasonable request in order to allow the residents of the second/third floor unit to modestly increase their living space. Further, the location of the proposed dormer faces the Somerville Community Path. As there are no abutting structures, and the proposed dormer is well-proportioned, the Board does not find that the dormer will have a negative visual impact from this public way.

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 Board finds that 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 Board also finds that the proposal is consistent with the purpose of the RB district, which is, “[t]o 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.” The proposed alteration does not change the existing use of the building which is 3-family and consistent with what is allowed in the RB zone. The proposed alteration provides visual and functional improvement to the building.

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: 41 Thorndike is located at the end of the street on a triangular lot abutting the Somerville Community Path. The immediate neighborhood contains similarly-styled gable-fronted residential structures along with quintessential triple-deckers. Across from the Somerville Community Path and facing 41 Thorndike is 20 Howard Street where the multi-unit Davis Square Lofts are located.

Impacts of Proposal (Design and Compatibility): The Board finds only one other structure in the surrounding neighborhood with a similarly-sized shed dormer: the left-abutting property at 43 Thorndike Street. The Applicant has down-sized the right elevation dormer from the original proposal such that the dormer now measures 50% of the roof plane to which it is to be attached.

6. Housing Impact: Will not create affordable housing units.

7. SomerVision Plan: Generally 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. This property is in need of an exterior upgrade as regards the structure and landscaping. This project will provide such an upgrade, as conditioned.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit with Site Plan Review and Variance. Elaine Severino seconded the motion. 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
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1	Approval is to construct a dormer within the right side yard setback.	BP/CO	ISD/Plng.													
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 14, 2018</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>July 18, 2018</td><td>Updated renderings and zoning data sheet submitted to OSPCD</td></tr><tr><td>August 2, 2018</td><td>Corrected zoning data sheet (page 4 of application) submitted to OSPCD</td></tr><tr><td>August 3, 2018</td><td>Updated plot plan submitted to OSPCD</td></tr><tr><td>October 26, 2018</td><td>New deed submitted to OSPCD along with updated application form bearing new owner information.</td></tr></table>				Date (Stamp Date)	Submission	June 14, 2018	Initial application submitted to the City Clerk's Office	July 18, 2018	Updated renderings and zoning data sheet submitted to OSPCD	August 2, 2018	Corrected zoning data sheet (page 4 of application) submitted to OSPCD	August 3, 2018	Updated plot plan submitted to OSPCD	October 26, 2018	New deed submitted to OSPCD along with updated application form bearing new owner information.
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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. This information shall be posted to be easily readable from the Somerville Community Path as well as from 41 Thorndike Street.	During Construction	ISD													
3	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													
4	Construction shall occur from 7:30am – 5:00pm Monday-Friday <u>ONLY</u> . There shall be no construction or construction-related work allowed on the weekends or holidays.	During Construction	ISD													
5	Under no circumstances shall building material or construction debris be found on the Somerville Community Path or City-owned property. The Applicant shall ensure that the area abutting the Community Path is secured such that the public on the Community Path is safeguarded from any falling debris or construction materials.	During Construction	ISD													
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. The building shall be re-sided and vinyl siding will not be permitted.	BP	Plng./ISD													



Site				
7	The property shall be re-landscaped. All landscaping materials including those used for plantings, hardscape and fencing shall first be submitted to and approved by Planning Staff prior to ordering or installation.	Prior to ordering/installation / CO	Plng./ISD	
8	The existing fence shall be replaced. Fence design and material shall be submitted to Planning Staff for their review and approval prior to ordering or installation. Chain link and vinyl fencing shall not be approved.	Prior to ordering/installation / CO	Plng./ISD	
9	All bituminous material and/or cement shall be removed from the site and be replaced with pervious pavers, pea stone or similar. All materials to be used shall be submitted to Planning Staff for their review and approval prior to ordering/installation.	Prior to ordering/installation / CO	Plng./ISD	
Miscellaneous				
10	Granting of the applied for use or alteration does <u>not</u> include the provision for short term rental uses, such as AirBnB, VRBO, or the like. Separate approvals are needed for the aforementioned uses.	Perpetual	ISD / Plng.	
Public Safety				
11	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
12	Per Somerville fire safety regulations, grills, barbecues, chimineas and the like are NOT permitted on decks or porches.	Perpetual	FP/ISD	
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*
Danielle Evans
Elaine Severino
Anne Brockelman

Attest, by the Administrative Assistant:

Monique Baldwin

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 _____

