



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-86
Site: 19-21 Calvin Street
Date of Decision: January 8, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: January 16, 2014

ZBA DECISION

Applicant Name:	Ethan D.J. Beauvais
Applicant Address:	P.O. Box 5531, Beverly Farms, MA 01915
Property Owner Name:	Ethan D.J. Beauvais
Property Owner Address:	P.O. Box 5531, Beverly Farms, MA 01915
Agent Name:	N/A

Legal Notice: Applicant and Owner, Ethan Beauvais, seeks a special permit under §4.4.1 to reconstruct a nonconforming 3-family home previously lost in a fire with modifications including sideyard setbacks and window and door alterations.

<u>Zoning District/Ward:</u>	RB zone/Ward 2
<u>Zoning Approval Sought:</u>	§4.4.1
<u>Date of Application:</u>	November 14, 2013
<u>Date(s) of Public Hearing:</u>	12/11/13 & 1/8/14
<u>Date of Decision:</u>	January 8, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-86 was opened before the Zoning Board of Appeals at Somerville City Hall on December 11, 2013. 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.



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DESCRIPTION:

The proposal is to construct a triple-decker on the vacant lot. There will be three units. The first floor unit will have a kitchen, living area, and three bedrooms on the main floor. There will be an additional 2 bedrooms, bathroom, and storage on the basement level. The second and third floor will be the same with 4 bedrooms, 2 bathrooms, and the kitchen/living area. The basement will have unfinished space including storage and utilities. Each unit will have a rear deck. The building will be centered on the lot to allow for 3'-3" and 3'-6" between the house and property lines. There will be a front planting bed, ground cover, and pervious pavers around the 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."

In considering a special permit under §4.4 of the SZO, the Board finds that the building proposed would not be substantially more detrimental to the neighborhood than the previous structure.

3. **Nature of Application:** Per SZO §4.4.2, "a lawful nonconforming building damaged by fire, explosion, catastrophe, or Act of God such building may rebuild or restore by-right..." The ordinance goes on to list exceptions to by-right construction including increasing any non-conformity or structural change. Therefore, the Applicant is seeking relief under SZO §4.4.1 to alter a nonconforming structure by reconstructing the triple decker with changes to the side yard setbacks and an increased FAR.

The proposal includes shifting the building on the lot due to a building code regulation that does not allow windows on a façade built within 3' of a side lot line. Since the previous structure did not have any conforming setbacks the application is to alter the nonconformity by rebuilding the building with a 3'-2" right side yard. The left side yard will be reduced to 3'-6". The new structure will still not have any conforming setbacks.

There is no parking relief associated with the application. There was no parking associated with the building prior to the fire and there will be no parking provided with this project.

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 promoting the health, safety, and welfare of the inhabitants of the City of Somerville, providing for and maintain the uniquely integrated structure of uses in the City; and to encourage housing for persons of all income levels.

The proposal is consistent with the purpose of the 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."

The surrounding neighborhood is densely developed, comprised of two- and three-family homes, most of which are triple-deckers with flat roofs. The neighborhood is in an accessible, walkable, and bikeable location to Beacon Avenue, Harvard University, and Union Square. Calvin Street is narrow with parking only allowed on the even side of the street.

The proposed building will be compatible with the neighborhood in design and residential use. The owners of 19-21 and 23-25 Calvin Street (Special Permit ZBA #2013-64) will share a coordinated planting area between the properties.

There are few impacts to this proposal. The fire in the Summer of 2013 destroyed two properties and damaged 6 others. The two parcels that have experienced a total loss are fenced. The other damaged properties are in various stages of renovation. The proposal will help return the neighborhood to its' condition prior to the fire.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 a special permit under §4.4.1 to reconstruct a nonconforming 3-family home previously lost in a fire with modifications including sideyard setbacks and window and door alterations. 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>September 17, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>November 14, 2013 (January 2, 2013)</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>January 1, 2013 (January 2, 2013)</td> <td>Modified plans submitted to OSPCD (A0.0-Site Plan, A1.1-Proposed Basement & 1st Floor Plans, A1.2-Proposed 2nd & 3rd Floor Plans, A2.1-Proposed Elevations)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	September 17, 2013	Initial application submitted to the City Clerk's Office	November 14, 2013 (January 2, 2013)	Modified plans submitted to OSPCD (Plot Plan)	January 1, 2013 (January 2, 2013)	Modified plans submitted to OSPCD (A0.0-Site Plan, A1.1-Proposed Basement & 1 st Floor Plans, A1.2-Proposed 2 nd & 3 rd Floor Plans, A2.1-Proposed Elevations)
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Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval.												
Pre-Construction												



2	The Applicant will be required to demonstrate that the project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage plans must be submitted to the Engineering Department for review and approval.	BP	Eng.	
Construction Impacts				
3	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	
4	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				
5	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng.	
6	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 Insp.	
Site				
7	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
8	Applicant shall provide a more developed landscape plan for Planning Staff review and approval. The area between 19-21 and 23-25 Calvin Street must be coordinated.	CO	Plng	
Miscellaneous				
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	
Final Sign-Off				
11	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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

Attest, by the Administrative Assistant:

Dawn M. Pereira

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 _____

