



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE (ALT.)

Case #: ZBA 2015-19
Site: 53 Columbus Avenue
Date of Decision: May 20, 2015
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 2, 2015

ZBA DECISION

Applicant Name:	Peter Kaplan
Applicant Address:	c/o RCG, LLC, 17 Ivaloo Street, Somerville, MA 02143
Property Owner Name:	RCG, LLC
Property Owner Address:	17 Ivaloo Street, Somerville, MA 02143
Agent Name:	N/A
<u>Legal Notice:</u>	Applicant, Peter Kaplan RCG, LLC, and Owner, RCG Columbus Renewal, LLC, seek a Special Permit to add an approximately 177 sf addition on the third floor of a nonconforming three-family house.
<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Date of Application:</u>	April 2, 2015
<u>Date(s) of Public Hearing:</u>	5/6 & 5/20/15
<u>Date of Decision:</u>	May 20, 2015
<u>Vote:</u>	5-0

Appeal #ZBA 2015-19 was opened before the Zoning Board of Appeals at Somerville High School Auditorium on May 6, 2015. 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.



DESCRIPTION:

The proposal is to add an approximately 177 square foot addition to the third floor to make the two-bedroom unit larger. The addition will have a mansard roof to match front portion of the house. The north side of the structure will be altered slightly to accommodate the addition and bring the clapboard siding up to the roofline. Also on this side of the house two windows will be slightly enlarged.

FINDINGS FOR SPECIAL PERMIT:

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 dimensional requirements, including minimum front and side yard setbacks, lot area, lot area per dwelling unit, floor area ratio, number of stories and street frontage.

The addition will comply with the required setbacks and will alter the following nonconforming dimensions. The third floor will be increased in area to accommodate the addition. The floor area ratio will be increased from 0.83 to 0.87 and the requirement is 0.75. This alteration to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

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 nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character."

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 addition has been designed with compliant setbacks and with a roof type and detailing that matches the main body of the house. The slight increase in FAR will allow the removal of the unsympathetic existing addition on the house.

A neighbor has voiced concerns about the following impacts: handling of asbestos and construction noise. If the asbestos siding is removed or disturbed, a licensed asbestos removal contractor will be required to appropriately handle the material. Notification of this work is reported to the City's Health Division of Inspectional Services. If neighbors have concerns about the work being done, they can report the work to this Division. Limiting hours of construction on Saturdays and posting the contact information for the contractor are conditions to try to address these concerns.

The Mayor's Office of Strategic Planning and Community Development has submitted an ordinance to the Board of Alderman to overhaul the current zoning ordinance. The re-advertised date of the legal notice was February 17.



Massachusetts General Law 40a, Section 6 states that a zoning ordinance shall apply to a special permit issued after the first notice of the public hearing for such an ordinance. Therefore, staff and boards should evaluate all applications based on the current and proposed ordinances so that there are no issued posed under either ordinance.

Under the proposed zoning ordinance, the house is a house building type. In the proposed code, the main body of this building type can be expanded to a maximum depth of 48 feet and rear additions can only be two-stories in height. The proposed addition is just over this max depth and would be require a special permit to expand this nonconforming dimension. Therefore the project would be able to move forward under the current and proposed codes if the Special Permit is approved.

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 maintaining the uniquely integrated structure of uses in the City.

The proposal is consistent with the purpose of the RA district, which is, "[t]o 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. The alteration to the existing 3-family structure that does not increase the number of bedrooms, despite the number of units, is consistent with the purpose of the district in adding a small addition to a residential unit.

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 Historic Preservation Commission has conditioned that the roof structure and detailing of the roof, eave line, shingle type, dormers, window casings, openings and sash, and siding will match that of the main body of the house. The existing third floor rear addition has a roofline that his not complementary to the mansard roof and the proposal will improve the appearance of the rear of the house.

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

The small addition to the third floor unit will not greatly impact the affordability of it.

6. 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; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

This property is marked as an area to conserve and the proposal meets this goal.

<u>SomerVision Summary</u>	<i>Existing</i>	<i>Proposed</i>
<i>Dwelling Units:</i>	3	3



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans , Elaine Severino and Josh Safdie. 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 third floor addition and window alterations. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Png.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 2, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>April 22, 2015</td> <td>Modified plans submitted to OSPCD (Plan of Land, Z1-Z2 zoning compliance, A1 Proposed third floor, A2 Existing & Proposed Views, A3 Proposed South Elevation, A4 Proposed East & West Elevations, A5 Proposed North Elevation, EC1-2 Existing floor plans, EC 3-5 Existing elevations)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	April 2, 2015	Initial application submitted to the City Clerk's Office	April 22, 2015	Modified plans submitted to OSPCD (Plan of Land, Z1-Z2 zoning compliance, A1 Proposed third floor, A2 Existing & Proposed Views, A3 Proposed South Elevation, A4 Proposed East & West Elevations, A5 Proposed North Elevation, EC1-2 Existing floor plans, EC 3-5 Existing elevations)
	Date (Stamp Date)				Submission					
April 2, 2015	Initial application submitted to the City Clerk's Office									
April 22, 2015	Modified plans submitted to OSPCD (Plan of Land, Z1-Z2 zoning compliance, A1 Proposed third floor, A2 Existing & Proposed Views, A3 Proposed South Elevation, A4 Proposed East & West Elevations, A5 Proposed North Elevation, EC1-2 Existing floor plans, EC 3-5 Existing elevations)									
Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval.										
2	The roof structure and detailing of the roof, eave line, shingle type, dormers, window casings, openings and sash, and siding will match or be complimentary to the main body of the house									
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	Png.							
4	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							



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	
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	If the asbestos siding is removed or disturbed, a licensed asbestos removal contractor is required to appropriately handle the material as required by the Heath Division of Inspectional Services with notification to this Division.	CO	Plng/OSE	
8	Construction hours are limited on Saturdays to 8am to 5pm.	During Construction	ISD	
Final Sign-Off				
9	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
Josh Safdie (Alt.)

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 _____

