



CITY OF SOMERVILLE, MASSACHUSETTS
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Case #: ZBA # 2013-08
Site: 47 Fairmount Avenue
Date of Decision: August 7, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 8, 2013

ZBA DECISION

Applicant Name:	Richard G. DiGirolamo, Esq.
Applicant Address:	424 Broadway, Somerville, MA 02145
Property Owner Name:	Edward C. Dolan
Property Owner Address:	4 Arline Drive, North Reading, MA 01864
Agent Name:	N/A

Legal Notice: Applicant, Richard Di Girolamo, and Owner, Edward Dolan, seek a Special Permit under SZO §4.4 to alter an existing 3-family dwelling to make alterations such as a second story front porch, expanded dormer, and window and door alterations. The Applicant seeks a Variance* to build a third story with the construction of a dormer under SZO §5.5. RA Zone. Ward 7.

<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4 & §5.5
<u>Date of Application:</u>	February 11, 2013
<u>Date(s) of Public Hearing:</u>	6/5, 6/19, 7/10, 8/7
<u>Date of Decision:</u>	August 7, 2013
<u>Vote:</u>	5-0

*A variance is no longer being sought.

Appeal #ZBA 2013-08 was opened before the Zoning Board of Appeals at Somerville City Hall on June 5, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



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c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two (2) hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The Applicant proposes to legalize the alterations made in the Summer/Fall of 2012 to the non-conforming three-family dwelling unit. There are several building permits associated with this renovation from new footings and exploratory demo. The dormer was shown in plan and section on the building permit plan set but not called out in the written portion of the application. It was not until the applicant requested a permit to change a window to a door, add a platform, and a canopy for a second egress to Unit 1 that they were told by Inspectional Services that they needed a special permit for that renovation. In turn, the applicant submitted a Special Permit application on February 11, 2013 to change a window to a door, add a platform, and a canopy for a second egress from Unit 1. At that time, it was brought to the Planning Staff's attention that many of the alterations on the drawings required special permits. With the exception of the original Special Permit item, the second egress from Unit 1, the work was already completed. On April 3, 2013 a stop work order was issued for the property citing §4.4.1 of the SZO, no certificate of occupancy has been issued. Planning Staff received revised drawings on July 24, 2013 showing a dormer reduced in size that requires a Special Permit.

The Applicant is seeking a Special Permit for the following completed renovations:

- A new second story porch on the front façade and the addition of a door to access said porch.
- An expanded dormer on the rear structure shown on the Southwest elevation.
- Removal of the garage door and the addition of a man door and 3 windows on the Southwest elevation
- New window on the Southwest elevation.
- New skylight on the rear structure on the Northeast elevation.

The Applicant is seeking a Special Permit for the following renovation (not constructed):

- A new canopy, platform, and window to door alteration on the Southwest elevation for a second egress to Unit 1.
- A new dormer on the front structure shown on the Southwest elevation (a dormer requiring a variance has already been constructed, the Applicant is proposing to reduce the size of the dormer).

These alterations are to accommodate a complete renovation and square footage expansion of three, 2-bedroom units. Two units are in the front structure and one unit is in the rear structure. There is no change in unit or bedroom count.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4):

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 alterations built would not be substantially more detrimental to the neighborhood than the existing structure. The second story porch, expanded rear structure dormer, reduced front dormer, and the window to door alterations, mainly on the southeast façade, allow for interior alternations that make the property more desirable. The front porches match existing conditions on Fairmount Street.



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; to lessen congestion in the streets; to prevent the overcrowding of land; and to conserve the value of land and buildings.

The proposal is consistent with the purpose of the district as an alteration to a residential property.

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 Applicant has increased the landscaping area from 8% to 10% and the pervious area from 16% to 19%. In both cases, the site still does meet the requirements of the SZO but both are improved. Since both dimensional requirements are not met, a recommended condition of this Special Permit is that the applicant installs a street tree.

There are five parking spaces accommodated on the site. Two in a garage, two at the rear lot line, and one near Unit 1. There is no turning radius on the site so most vehicles will back out of the 120' long driveway. Planning Staff as well as Traffic and Parking have concerns regarding access and egress of vehicles to and from the 3 surface parking spaces. A condition of this report is that the Applicant will work with Traffic and Parking and install the appropriate regulatory signage. With the difficult parking scheme proposed, it is probable that the spaces proposed will go under utilized and tenants will park on the street.



DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Elaine Severino. Upon a request from the Applicant, Orsola Susan Fontano made a motion to approve the request to withdraw the petition for a Variance without prejudice. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **(5-0)** to **APPROVE** the request to withdraw the petition for a Variance without prejudice.

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans, and Elaine Severino. Upon making the above findings, Orsola 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	<p>Approval is for the Special Permit under SZO §4.4 to alter an existing 3-family dwelling to make alterations such as a second story front porch, expanded dormer on the rear structure, and window and door alterations. This approval does not include the Variance required for the dormer on the front structure. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February 11, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>May 21, 2013</td> <td>Modified plans submitted to OSPCD (Plot Plan)</td> </tr> <tr> <td>May 17, 2013</td> <td>Modified plans submitted to OSPCD (1-Unit 1 Existing and Proposed Plans, 2-Existing Plans, 3-Unit 2 Proposed Plans, 4-Unit 3 Existing Plans, 5-Unit 3 Proposed Plans, Sheets 6, 7, 8, 9, 10-Existing and Proposed Elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved plans and elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	February 11, 2013	Initial application submitted to the City Clerk's Office	May 21, 2013	Modified plans submitted to OSPCD (Plot Plan)	May 17, 2013	Modified plans submitted to OSPCD (1-Unit 1 Existing and Proposed Plans, 2-Existing Plans, 3-Unit 2 Proposed Plans, 4-Unit 3 Existing Plans, 5-Unit 3 Proposed Plans, Sheets 6, 7, 8, 9, 10-Existing and Proposed Elevations)	CO / BP	ISD/PIng.	
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Pre-Construction												
2	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									
Construction												



3	Applicant will reduce the size of the dormer on the front house to be less than 50% of the length of the front structure.	CO	Plng.	
Site				
4	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	
5	Applicant will work with the Superintendent of Highways to install a street tree.	CO	Plng.	
Traffic & Parking				
6	Applicant will work with Traffic and Parking to install the appropriate regulatory signage.	CO	T&P	
Miscellaneous				
7	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				
8	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
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.	
10	This Special Permit supersedes condition #4 of case ZBA 1995-26.	Perpetual	Plng.	



Attest, by the Zoning Board of Appeals:

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

Attest, by the Senior Planner:

Lori Massa

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 _____

